

Exhibit JJ

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<p>1 UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF MISSOURI 3 CENTRAL DIVISION 4 SHONDEL CHURCH, et al.,) 5) 6 Plaintiffs,) 7 vs.) Case No. 8) 17-04057-CV-C-NKL 9 STATE OF MISSOURI, et al.,) 10) 11 Defendants.) 12 13 14 VIDEO-RECORDED DEPOSITION OF SARAH K. JOHNSON 15 TAKEN ON BEHALF OF THE PLAINTIFFS 16 OCTOBER 6, 2017 17 18 19 20 (Starting time of the deposition: 9:06 a.m.) 21 22 23 24 25</p>	<p>1 UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF MISSOURI 3 CENTRAL DIVISION 4 SHONDEL CHURCH, et al.,) 5) 6 Plaintiffs,) 7 vs.) Case No. 8) 17-04057-CV-C-NKL 9 STATE OF MISSOURI, et al.,) 10) 11 Defendants.) 12 13 14 VIDEO-RECORDED DEPOSITION OF SARAH K. JOHNSON, 15 produced, sworn and examined on October 6, 2017, 16 between the hours of nine o'clock in the forenoon 17 and one o'clock in the afternoon of that day, at the 18 ACLU of Missouri Foundation, Suite 1130, 906 Olive 19 Street, St. Louis, Missouri 63101, before William L. 20 DeVries, a Certified Court Reporter (MO), Registered 21 Diplomate Reporter, and Certified Realtime Reporter, 22 in a certain cause now pending in the United States 23 District Court, Western District of Missouri, 24 Central Division, between SHONDEL CHURCH, et al., 25 Plaintiffs, vs. STATE OF MISSOURI, et al., Defendants; on behalf of the Plaintiffs.</p>
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<p>1 I N D E X 2 QUESTIONS BY: PAGE 3 MS. QUINN 7 4 MR. MOORE 142 5 MS. SHIPMA 185 6 MS. QUINN 192 7 MR. MOORE 195 8 9 10 E X H I B I T S 11 EXHIBIT PAGE 12 Exhibit 1 Previously marked exhibit 9 13 Exhibit 21 Exhibit 6 of complaint 27 14 Exhibit 22 Exhibit 9 of complaint 30 15 Exhibit 23 Exhibit 11 of complaint 34 16 Exhibit 24 Exhibit 8 of complaint 41 17 Exhibit 25 Exhibit 12 of complaint 42 18 Exhibit 26 Exhibit 7 of complaint 47 19 Exhibit 27 New Attorney Toolbox 59 20 Exhibit 28 Memorandum of understanding 71 21 Exhibit 29 Exhibit 1 of complaint 127 22 23 (The original exhibits were retained by the court 24 reporter to be attached to the original and copies 25 of the transcript.)</p>	<p>1 A P P E A R A N C E S 2 For the Plaintiffs: 3 Ms. Mae C. Quinn 4 Roderick & Solange 5 MacArthur Justice Center 6 315 South Grand Boulevard, Suite 300 7 St. Louis, Missouri 63118 8 (314) 254-8540 9 mae.quinn@macarthurjustice.org 10 Ms. Easha Anand 11 Orrick, Herrington & Sutcliffe LLP 12 405 Howard Street 13 San Francisco, California 94105-2669 14 (240) 888-8857 15 eanand@orrick.com 16 17 For the Public Defender Defendants: 18 Ms. Jacqueline Shipma 19 Missouri State Public Defender 20 1000 West Nifong 21 Building 7, Suite 100 22 Columbia, Missouri 65203 23 (573) 525-5212 24 jacqueline.shipma@mspd.mo.gov 25 26 For the State of Missouri and 27 Governor Greitens: 28 Mr. Justin C. Moore 29 State of Missouri 30 Attorney General's Office 31 815 Olive Street, Suite 200 32 St. Louis, Missouri 63101 33 (314) 340-3447 34 justin.moore@ago.mo.gov 35 Mr. Steven R. Ramsey 36 State of Missouri 37 Attorney General's Office 38 221 West High 39 Jefferson City, Missouri 65102 40 (573) 751-1024 41 steven.ramsey@ago.mo.gov</p>

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<p>1 Also present: 2 Mr. John Niehaus, Videographer 3 Midwest Litigation Services 4 711 North Eleventh Street 5 St. Louis, Missouri 63101 6 (314) 644-2191 7 1-800-280-3376 8 9 10 Court Reporter: 11 William L. DeVries, RDR/CRR 12 Missouri CCR #566 13 Illinois CSR #084-003893 14 Midwest Litigation Services 15 711 North Eleventh Street 16 St. Louis, Missouri 63101 17 (314) 644-2191 18 1-800-280-3376 19 20 21 22 23 24 25</p>	<p>1 Midwest Litigation Services. 2 Will counsel please introduce yourself 3 for the record? 4 MS. QUINN: Sure. I'm Mae Quinn, 5 M-A-E, Q-U-I-N-N, from the MacArthur Justice Center 6 on behalf of plaintiffs. 7 MS. ANAND: And I'm Easha Anand, that's 8 E-A-S-H-A, last name A-N-A-N-D, and I'm from Orrick 9 Herrington & Sutcliffe also for plaintiffs. 10 MR. RAMSEY: Steven Ramsey on behalf of 11 the State of Missouri and on behalf of Governor Eric 12 Greitens. 13 MR. MOORE: Justin Moore on behalf of 14 the State of Missouri. 15 MS. SHIPMA: Jacqueline Shipma on 16 behalf of the public defenders. 17 VIDEOGRAPHER: Could you please swear 18 in the witness? 19 COURT REPORTER: Do you swear or affirm 20 that the testimony you are about to give in this 21 proceeding will be the truth, the whole truth, and 22 nothing but the truth? 23 THE WITNESS: I do. 24 EXAMINATION 25 QUESTIONS BY MS. QUINN:</p>
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<p>1 IT IS HEREBY STIPULATED AND AGREED by 2 and between counsel for the Plaintiffs and counsel 3 for the Defendants that this deposition may be taken 4 in shorthand by William L. DeVries, RDR/CRR, a 5 Certified Court Reporter and Certified Shorthand 6 Reporter, and afterwards transcribed into 7 typewriting; and the signature of the witness is 8 expressly reserved. 9 * * * * * 10 SARAH K. JOHNSON, 11 of lawful age, produced, sworn and examined on 12 behalf of the Plaintiffs, deposes and says: 13 (Starting time of the deposition: 9:06 a.m.) 14 VIDEOGRAPHER: We're on the record. 15 Today's date is October 6th, 2017, and the time is 16 approximately 9:06 a.m. This is the video-recorded 17 deposition of Sarah Johnson, in the matter of 18 Shondel Church, et al., versus State of Missouri, 19 et al., Case Number 17-04057-CV-C-NKL, in the United 20 States District Court for the Western District of 21 Missouri, Central Division. 22 This deposition is being held at ACLU 23 of Missouri Foundation in St. Louis, Missouri. The 24 reporter's name is Bill DeVries. My name is John 25 Niehaus. I'm the legal videographer. We are with</p>	<p>1 Q. Good morning, Ms. Johnson. 2 A. Good morning. 3 Q. Thank you for being here today. So we 4 know each other from our work in the community here; 5 is that right? 6 A. Yes. 7 Q. Okay. And would you state your full 8 name for the record, please? 9 A. Sarah Kennedy Johnson. 10 Q. And what is your current title, 11 Ms. Johnson? 12 A. Sure. So I have two of them. I am the 13 director of juvenile defense and policy for the 14 public defender system. I am also the deputy 15 district defender for the city of St. Louis trial 16 office. 17 Q. Congratulations -- 18 A. Thank you. 19 Q. -- about the second. All right. And 20 how long have you been with the public defender 21 service? 22 A. So I have been with the public defender 23 service since 2009, October. So approximately eight 24 years. 25 Q. Okay. And so you have been asked to be</p>

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<p style="text-align: right;">Page 9</p> <p>1 here today to represent the public defender's</p> <p>2 office.</p> <p>3 (Exhibit 1, Previously marked exhibit.)</p> <p>4 Q. (By Ms. Quinn) I'm going to show to</p> <p>5 you Plaintiff's Exhibit 1. It was previously</p> <p>6 marked. I don't know if the other folks in the room</p> <p>7 have a copy or need a copy. Would you mind taking a</p> <p>8 look there at Exhibit 1?</p> <p>9 A. Okay.</p> <p>10 Q. And have you seen that document before?</p> <p>11 A. Yes, I have.</p> <p>12 Q. And you recognize that as the 30(b)(6)</p> <p>13 notice for deposition for the public defender's</p> <p>14 office, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you were asked to be here today to</p> <p>17 testify about the subjects on the attachment to that</p> <p>18 notice, correct?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. And you are prepared to do that today?</p> <p>21 A. I am.</p> <p>22 Q. And as you noted earlier, your focus</p> <p>23 seems to be on juvenile matters in the public</p> <p>24 defender system; is that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 A. I did. There are five copies.</p> <p>2 Q. Terrific. Let the record reflect that</p> <p>3 Ms. Johnson has shared with us a copy of this MOU</p> <p>4 relating to services of contract attorneys in the</p> <p>5 city of St. Louis for the public defender service</p> <p>6 and the juvenile court of St. Louis city and with</p> <p>7 permission of Ms. Shipma I will distribute these to</p> <p>8 everyone here.</p> <p>9 MS. SHIPMA: Uh-huh. Are you going to</p> <p>10 have those marked?</p> <p>11 MS. QUINN: Yeah. I think we'll get to</p> <p>12 these later on. Yeah. So I'll turn to this later</p> <p>13 if that's all right.</p> <p>14 Q. (By Ms. Quinn) Was there any other</p> <p>15 document that you reviewed in preparation for today?</p> <p>16 A. I reviewed the complaint that was</p> <p>17 filed.</p> <p>18 Q. All right. And I noted that you</p> <p>19 earlier mentioned something called the National</p> <p>20 Juvenile Defender Center Justice Rationed report.</p> <p>21 Do you have any objection for today's conversation</p> <p>22 if when we talk about materials from the National</p> <p>23 Juvenile Defender Center that we use the term NJDC?</p> <p>24 A. I do not.</p> <p>25 Q. Okay. And same with regard to the</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. And so with regard to the notice, your</p> <p>2 focus then would be policies, practices, procedures</p> <p>3 relating to juvenile cases?</p> <p>4 A. That's right.</p> <p>5 Q. All right. And did you do anything in</p> <p>6 preparation for your testimony today?</p> <p>7 A. I did. I spoke with our general</p> <p>8 counsel Ms. Shipma. I also reviewed the National</p> <p>9 Juvenile Defender Center Justice Rationed article</p> <p>10 that was created on Missouri. I also reviewed the</p> <p>11 Department of Justice report and I reviewed the</p> <p>12 Department of Justice agreement.</p> <p>13 Q. All right. And you named a number of</p> <p>14 documents that I think have already been introduced</p> <p>15 into this suit by way of exhibits to our complaint.</p> <p>16 Was there any document beyond those that you</p> <p>17 reviewed that perhaps we do not have?</p> <p>18 A. I reviewed -- there is a memorandum of</p> <p>19 understanding that was created between the public</p> <p>20 defender system and the 22nd Judicial Circuit Family</p> <p>21 Court. It is a contract attorney -- providing a</p> <p>22 contract attorney for juvenile cases in the city of</p> <p>23 St. Louis.</p> <p>24 Q. All right. And by chance did you bring</p> <p>25 that MOU with you today?</p>	<p style="text-align: right;">Page 12</p> <p>1 Department of Justice's report, I think you</p> <p>2 mentioned, I assume you mean there the St. Louis</p> <p>3 County investigation of the juvenile court, correct?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. And do you have any objection as -- as</p> <p>6 we talk about that set of materials that we use the</p> <p>7 term the DOJ report?</p> <p>8 A. No, I do not.</p> <p>9 Q. Or maybe the DOJ investigation to be</p> <p>10 clear; is that all right?</p> <p>11 A. That's just fine.</p> <p>12 Q. And then the DOJ agreement is the</p> <p>13 second related document --</p> <p>14 A. That's fine.</p> <p>15 Q. -- does that work? Okay. Have you</p> <p>16 ever testified under oath before?</p> <p>17 A. I have not.</p> <p>18 Q. Okay. It's not --</p> <p>19 A. You know what, yes. I -- I take that</p> <p>20 back. Yes, I did once previously.</p> <p>21 Q. Okay. And was it in a deposition?</p> <p>22 A. No, it was not. It was in a trial.</p> <p>23 Q. All right. And -- but you were under</p> <p>24 oath?</p> <p>25 A. I was.</p>

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<p>1 Q. So you know to tell the truth?</p> <p>2 A. Yes.</p> <p>3 Q. You also know if I ask a question and</p> <p>4 it's not clear, just to seek clarification from me?</p> <p>5 A. Yes.</p> <p>6 Q. And I'm frequently unclear, so I will</p> <p>7 not take it personally if you need me to restate the</p> <p>8 question.</p> <p>9 A. Okay.</p> <p>10 Q. I'm from New York as you know, and I</p> <p>11 tend to interrupt people. I'll try not to interrupt</p> <p>12 you, and maybe you can do the same. We'll try not</p> <p>13 to speak over each other so that we get a good</p> <p>14 record. And if you need a break, of course you can</p> <p>15 just ask for a break and Jacquie, your attorney of</p> <p>16 course knows to do the same. I guess the one thing</p> <p>17 is if there's a question on the table that you</p> <p>18 answer it first before we take the break.</p> <p>19 A. Okay.</p> <p>20 Q. Does that all work for you?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Terrific. All right. So let us then</p> <p>23 talk about information that we sought by way of the</p> <p>24 30(b)(6) notice. As the designated juvenile expert</p> <p>25 for the public defenders system, can you tell us a</p>	<p>1 adults back downtown in the St. Louis city trial</p> <p>2 office. And then from 2014 to present I have</p> <p>3 represented youth in St. Louis city, St. Louis</p> <p>4 County, St. Charles County, St. Francois County, and</p> <p>5 Jefferson County.</p> <p>6 Q. So you've anticipated my next question,</p> <p>7 and that was, you know, how many counties have you</p> <p>8 handled juvenile matters in, and so it sounds like</p> <p>9 talking a total of five at this point?</p> <p>10 A. Yes. And that was for conflict cases.</p> <p>11 So St. Louis County, St. Charles County,</p> <p>12 St. Francois County, Jefferson County, those were</p> <p>13 all for conflict cases.</p> <p>14 Q. Have you handled any juvenile appeals?</p> <p>15 A. I've handled one.</p> <p>16 Q. And what about juvenile postconviction</p> <p>17 matters separate from appeals?</p> <p>18 A. No.</p> <p>19 Q. And through your many years of</p> <p>20 experience with the public defender service in both</p> <p>21 adult and juvenile matters, have you had the</p> <p>22 opportunity to interact with other public defenders</p> <p>23 who handle juvenile cases?</p> <p>24 A. I have.</p> <p>25 Q. And you've mentioned some of the</p>
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<p>1 little bit about your -- your education and</p> <p>2 background?</p> <p>3 A. Sure. So I went to St. Louis</p> <p>4 University and I got my undergraduate degree there.</p> <p>5 I went to St. Louis University Law School and I</p> <p>6 graduated there in 2009, and then I began with the</p> <p>7 public defender system in 2009 and have been there</p> <p>8 ever since.</p> <p>9 MS. QUINN: Okay. And then are you</p> <p>10 able -- is everyone getting Ms. Johnson loud enough?</p> <p>11 VIDEOGRAPHER: Yeah.</p> <p>12 Q. (By Ms. Quinn) Okay. And after</p> <p>13 joining the public defender's system -- and forgive</p> <p>14 me, I'll often say the public defender's service</p> <p>15 from working at other places, but the public</p> <p>16 defender system, what roles have you played in -- in</p> <p>17 your job there?</p> <p>18 A. Sure. So I have always been in the</p> <p>19 St. Louis city trial office, so from 2009 to 2010 I</p> <p>20 was downtown representing adults in misdemeanors and</p> <p>21 low level felonies. From 2010 to 2011 I worked in</p> <p>22 the St. Louis city juvenile division and I</p> <p>23 represented youth.</p> <p>24 I also had some adult misdemeanor cases</p> <p>25 at that time. From 2011 to 2014 I was representing</p>	<p>1 counties where you do conflict cases. In addition</p> <p>2 to that set of interactions, how else have you</p> <p>3 interacted with juvenile defenders across the state?</p> <p>4 A. Sure. So in a couple of different</p> <p>5 ways. First through phone conversations. So if</p> <p>6 someone from the public defender system has a</p> <p>7 question regarding juvenile matters, they're often</p> <p>8 directed to me. So I speak with individuals who</p> <p>9 have represented youth or are -- or who are</p> <p>10 currently representing youth.</p> <p>11 The second is through juvenile</p> <p>12 training. So we have a once-a-year juvenile</p> <p>13 training. That has traditionally been held in</p> <p>14 Columbia, Missouri or in St. Louis where individuals</p> <p>15 who represent youth in the public defender system</p> <p>16 are encouraged to come and be trained. And then the</p> <p>17 last interaction would be in court settings where I</p> <p>18 would run into individuals representing youth.</p> <p>19 Q. All right. And we may unpack some of</p> <p>20 those interactions a little bit -- bit more as -- as</p> <p>21 we talk today. You also mention beyond handling</p> <p>22 juvenile matters and interacting with juvenile</p> <p>23 attorneys that you've also handled adult matters in</p> <p>24 the system?</p> <p>25 A. I have.</p>

4 (Pages 13 to 16)

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<p>1 Q. And so is it fair to say then that you 2 have a good sense of the differences between adult 3 defense practice and juvenile defense practice? 4 A. I do. 5 Q. And when we're talking about juvenile 6 defense practice we might use the term delinquency. 7 Is that right? 8 A. Yes. 9 Q. Can you explain for folks, especially 10 who maybe don't do juvenile practice, what the term 11 delinquency means? 12 A. Sure. So when a youth under the age of 13 17 in Missouri is charged with an offense, it is 14 called a delinquent offense. It is not an actual 15 felony charge. So when a child is charged with an 16 offense, there are allegations filed in a petition 17 and they are felony -- they would be either felonies 18 or misdemeanors if an adult was charged with them. 19 Q. Okay. Now, when you say they're not 20 actual felonies, in fact they are felonies with all 21 of the same elements as an adult felony charge, 22 correct? 23 A. They are, yes. 24 Q. I think perhaps you're talking about 25 whether or not it's an open record like an ordinary</p>	<p>1 would be the -- under the criminal code. There are 2 also the 211.031 subsection two charges, which are 3 the status offenses. 4 So those are the offenses that adults 5 would not be charged with. So that is truancy, 6 behavior injurious, not -- not following their 7 parents' rules, curfew, those kinds of violations, 8 status offenses. 9 Q. All right. So it sounds like in 10 essence there are three possibilities for a young 11 person to face in terms of charges in juvenile 12 court: Status offenses, misdemeanor offenses or 13 felony offenses? 14 A. Yes. 15 Q. And just so that everybody is clear, 16 when you -- the status offense list that you spelled 17 out for us, those are things that a person is 18 charged with given their status as a young person; a 19 grown person could not be charged with those, those 20 are not considered wrongdoings for fully grown 21 adults? 22 A. That is correct. 23 Q. And you did touch on this already, but 24 just so the record is clear, can you talk again 25 about the cutoff between childhood and adult for</p>
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<p>1 felony adult case? 2 A. And -- and whether it's a conviction. 3 So they are not considered convictions under the 4 juvenile code. 5 Q. And in terms of the young people who 6 are charged in juvenile court, do we call them 7 defendants? 8 A. No. 9 Q. What do we refer to them as? 10 A. They're referred to as juveniles, but 11 the practice has -- is shifting towards youth. 12 They're trying to use the word youth. 13 Q. Yeah. And what about the term 14 respondent, does that mean anything to you in the 15 context of juvenile practice? 16 A. It does. That is the -- the respondent 17 is the youth or the juvenile. 18 Q. All right. And you have talked already 19 a little bit about the range of matters or charges 20 that a young person might face. Might you unpack 21 that a little bit more for us? 22 A. Sure. So there are the criminal 23 offenses that a youth can face, so those could be 24 anywhere from very low level misdemeanors all the 25 way up into murder in the first degree. So those</p>	<p>1 purposes of juvenile delinquency charges in the 2 State of Missouri? 3 A. Sure. So in Missouri any child -- 4 anyone is considered a child if they are under the 5 age of 17. 6 Q. How does that compare to other case -- 7 other states? 8 A. So Missouri is currently one of five 9 states left that has that age of under 18. So there 10 are -- they are one of five left. 11 Q. All right. So the default -- the 12 majority rule across the country is 18 is the 13 cutoff, but we're in the minority because we use 17 14 as the cutoff before you go to adult court; is that 15 right? 16 A. That's correct. 17 Q. Now, do young people under the age of 18 17 ever go to adult court to face charges? 19 A. Yes, they do. But the court in -- the 20 juvenile court first has to make a determination 21 pursuant to section 211.071 to determine under the 22 certification statute if they should stay in trial 23 as an adult. 24 Q. Okay. Can you explain a little bit 25 about that process and what that means?</p>

5 (Pages 17 to 20)

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<p>1 A. Sure. So if a child is charged with a 2 list of offenses under 211.071 including murder in 3 the first degree, robbery, assault first, rape, 4 there are some other -- arson, that is called a 5 mandatory certification review. 6 So the judge has to look at those ten 7 factors under section 211.071 to determine whether 8 the child can be rehabilitated in the juvenile 9 system or whether they should stand trial as an 10 adult. 11 There -- the statute also provides, 12 though, that a child can be certified for any felony 13 as well as if it is their third subsequent felony. 14 Q. All right. So now you have used the 15 term mandatory to refer to some transfer or 16 certification cases. That does not mean that the 17 child must necessarily go to adult court, correct? 18 A. It does not. It means that there must 19 be a mandatory review by the court. 20 Q. Okay. And you mentioned ten factors 21 under the statute I think you meant -- said that the 22 judge must look at. Are those the only factors the 23 court might look at during certification? 24 A. No. No. That -- that is not an 25 exhaustive list.</p>	<p>1 Q. What is section 211? 2 A. That is the family code and the 3 juvenile code for Missouri. 4 Q. And that is one of the central bodies 5 of law that controls juvenile cases in Missouri; is 6 that right? 7 A. That is correct. 8 Q. Outside -- it's outside of the criminal 9 code entirely? 10 A. Yes. 11 Q. So now, since you have practiced both 12 on the adult side of the docket and the juvenile 13 side of the docket, do you have any opinion about 14 juvenile defense being a specialized type of 15 practice? 16 A. Absolutely. 17 Q. Can you tell us more about that? 18 A. Juvenile defense is an absolute 19 specialty. It requires knowledge in adolescent 20 brain development. It requires knowledge in 21 specific laws. It requires knowledge in procedural 22 rules that are different. It requires an ability to 23 work with families to a greater extent in my opinion 24 than in other cases. It also requires a knowledge 25 of dispositional resources and -- and it requires an</p>
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<p>1 Q. And in terms of nonmandatory 2 certifications, can you talk a little bit about the 3 process there and what the court might look at in 4 those cases? 5 A. So when you mean nonmandatory 6 certifications, you mean just permissive? 7 Q. Yeah, or discretionary. Yeah. 8 A. Okay. So these would be offenses 9 that -- offenses that would not be listed in that 10 list under 211.071. The procedure is the same. The 11 court still has to look at those factors to make a 12 determination whether the child should be sent to 13 adult court. 14 Q. And how is it determined if a case will 15 be processed with a discretionary type certification 16 request? 17 A. Sure. So the request can either be 18 made by the legal officer, who is the prosecutor. 19 It can be made by the child or the child's parents 20 or any interested party. It could also be the court 21 that makes that recommendation or request. 22 Q. And these processes we've just spoken 23 about in terms of certification and transfer, you 24 noted they are in section 211; is that right? 25 A. Yes.</p>	<p>1 ability to work with and understand children. 2 Q. And it sounds like given what you 3 mentioned earlier that a juvenile defense lawyer to 4 be able to do their job must know the criminal side 5 of the docket for those possible certification cases 6 as well as all of these things on the juvenile code 7 and juvenile practice side? 8 A. Absolutely. And -- and I failed to 9 mention including Supreme Court case law and the 10 bodies of research that surround juvenile practice. 11 Q. Now, you mentioned some of the things 12 that make the job of a juvenile defender or someone 13 who's defending a juvenile to be particularly 14 challenging. What about communicating with 15 juveniles, what's that like? 16 A. Sure. So communicating with youth is a 17 lot different than -- than communicating with adults 18 for several reasons. First, many youth have never 19 been in the juvenile justice system before and so 20 they don't have an understanding of the process and 21 the procedures. Second, youth don't have an 22 understanding necessarily or they might lack the 23 necessary communication skills or language skills to 24 understand the terminology that you're saying to 25 them, so you have to break it down and make the</p>

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<p>1 system understandable to them.</p> <p>2 Q. And maybe we'll make it a little more</p> <p>3 concrete. In juvenile court, as an adult court, are</p> <p>4 young people ever presented with plea offers?</p> <p>5 A. Absolutely.</p> <p>6 Q. And in your experience, just as a very</p> <p>7 singular example, in conveying a plea offer to a</p> <p>8 grown adult versus conveying a plea offer to a young</p> <p>9 person in juvenile court, what are the differences</p> <p>10 or perhaps challenges that you confront?</p> <p>11 A. Sure. So a youth's first question and</p> <p>12 their first goal if they're detained is when am I</p> <p>13 going to get out, and so a lot of times that desire</p> <p>14 over -- that desire outweighs any collateral</p> <p>15 consequence or any foreseeable consequence for a</p> <p>16 youth admitting to an offense.</p> <p>17 And so that is one difficulty. The</p> <p>18 other difficulty I see in conveying plea offers to</p> <p>19 youth is while their -- their parent might not be in</p> <p>20 the room, parents have a big influence on what</p> <p>21 happens to a child and whether or not they plead</p> <p>22 guilty or admit to the allegation -- or do not admit</p> <p>23 to the allegations.</p> <p>24 Q. Yeah. And just from what you have</p> <p>25 described, it sounds like perhaps it takes more time</p>	<p>1 read it.</p> <p>2 Q. Okay.</p> <p>3 (WHEREIN, Exhibit 21, Exhibit 6 of</p> <p>4 complaint, was marked for identification.)</p> <p>5 Q. (By Ms. Quinn) I'm going to show to</p> <p>6 you what we're going to mark as Plaintiff's</p> <p>7 Exhibit 21, which confusingly has on its cover</p> <p>8 Exhibit 6, and that is because this is Exhibit 6 to</p> <p>9 our complaint. All right, and if you wouldn't mind,</p> <p>10 just take a few moments to familiarize yourself with</p> <p>11 that document. Have you had an opportunity just to</p> <p>12 scan some of the document that I've presented to</p> <p>13 you?</p> <p>14 A. Yes, I have.</p> <p>15 Q. All right. And I'm actually going to</p> <p>16 direct your attention to some specific sections --</p> <p>17 A. Okay.</p> <p>18 Q. -- in this report if you don't mind.</p> <p>19 Can we look together at page one, the footnote two</p> <p>20 on page one in particular, and if you wouldn't mind</p> <p>21 reading into the record what that footnote says?</p> <p>22 A. You said footnote one?</p> <p>23 Q. I'm sorry, page one, footnote two.</p> <p>24 A. (Quote as read):</p> <p>25 The statutes do not distinguish between</p>
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<p>1 to convey to a young person a plea offer and ensure</p> <p>2 that what they're doing is knowing, intelligent, and</p> <p>3 voluntary. Is that a fair assessment of what you</p> <p>4 just conveyed?</p> <p>5 A. Yes, it is.</p> <p>6 Q. All right. We may return to some of</p> <p>7 those topics later, but I want to shift our</p> <p>8 attention a little bit here to the history of</p> <p>9 juvenile practice in the State of Missouri and</p> <p>10 within the public defender's system.</p> <p>11 A. Okay.</p> <p>12 Q. Are you familiar with the different</p> <p>13 studies or assessments that have been undertaken to</p> <p>14 evaluate the public defender system in the State of</p> <p>15 Missouri?</p> <p>16 A. Are you referring to juvenile</p> <p>17 assessments or just assessments in general?</p> <p>18 Q. Actually, general. General at this</p> <p>19 point.</p> <p>20 A. Okay. Yes, I'm familiar with some of</p> <p>21 them.</p> <p>22 Q. All right. Are you familiar with</p> <p>23 something that is referred to as the Spangenberg</p> <p>24 report or Spangenberg report?</p> <p>25 A. I mean, I've heard of it, but I've not</p>	<p>1 juveniles and adults. As discussed --</p> <p>2 discussed in section 3C of this report,</p> <p>3 we are deeply concerned about the few</p> <p>4 juveniles represented by the MSPD. We</p> <p>5 have been unable to determine why this</p> <p>6 is the case, and we strongly urge that</p> <p>7 the issue receive further inquiry and</p> <p>8 attention.</p> <p>9 Q. All right. So even though perhaps you</p> <p>10 haven't spent a lot of time with this report</p> <p>11 previously, the Spangenberg report, does that</p> <p>12 footnote in some ways ring true to you?</p> <p>13 A. Yes, it does.</p> <p>14 Q. All right. Let's then turn to what</p> <p>15 they're referring to in this footnote on page 57,</p> <p>16 and I'll just say I think what they mean is 2C, not</p> <p>17 3C, but let's take a look at page 57 at the end, and</p> <p>18 then heading into page 58 as it -- the report talks</p> <p>19 about juveniles. And here I'll direct your</p> <p>20 attention to the very last line on page 57 that</p> <p>21 starts more surprising still. And if you would just</p> <p>22 to yourself take a look at that next section. All</p> <p>23 right. So the -- the section I've directed your</p> <p>24 attention to indicates that (quote as read):</p> <p>25 More surprisingly still is that the</p>

7 (Pages 25 to 28)

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<p>1 MSPD represented only 35 percent of the</p> <p>2 juvenile delinquency and status offense</p> <p>3 cases filed in Missouri courts in 2007,</p> <p>4 down from 40 percent in 2004,</p> <p>5 38 percent in 2005, 37 percent in 2006.</p> <p>6 Does this information ring true to you</p> <p>7 given your experience?</p> <p>8 A. I don't know the -- the percentages. I</p> <p>9 don't question this report, but I don't know the</p> <p>10 percentages of youth represented currently in</p> <p>11 Missouri, but it would not surprise me that -- that</p> <p>12 this is the -- the state of representation.</p> <p>13 Q. Okay. And we'll -- again, we'll unpack</p> <p>14 this maybe a little bit more later on in our</p> <p>15 conversation, but is it your understanding that MSPD</p> <p>16 represents all young people who need counsel in</p> <p>17 juvenile courts?</p> <p>18 A. No.</p> <p>19 Q. And is it your understanding that some</p> <p>20 young people are going without counsel who need</p> <p>21 counsel in juvenile courts?</p> <p>22 A. Absolutely.</p> <p>23 Q. And that some young people who are</p> <p>24 entitled to counsel are going without counsel in our</p> <p>25 juvenile courts?</p>	<p>1 that youth were receiving in our state.</p> <p>2 Q. And can you tell us a bit about the</p> <p>3 main findings of this report with regard to the</p> <p>4 quality and quantity of defense services provided to</p> <p>5 juveniles in Missouri?</p> <p>6 A. Sure. So it was very troubling. They</p> <p>7 found that youth were routinely waiving the right to</p> <p>8 counsel. They found that many youth did not have</p> <p>9 the ability to receive counsel for important</p> <p>10 offenses, and that -- also that the structure of</p> <p>11 Missouri's juvenile court system is very conflicted</p> <p>12 and that children were not receiving adequate</p> <p>13 representation throughout all of the stages of their</p> <p>14 offense.</p> <p>15 Q. Okay. On that last point that children</p> <p>16 were not receiving adequate representation</p> <p>17 throughout all the stages of their case, can you</p> <p>18 unpack that a little more for us in terms of NJDC's</p> <p>19 findings?</p> <p>20 A. Sure. So first youth were not</p> <p>21 receiving counsel for detention hearings or pre --</p> <p>22 pretrial representation. Additionally, not</p> <p>23 receiving adequate representation throughout the</p> <p>24 process and then were not receiving</p> <p>25 postdispositional services from an attorney.</p>
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<p>1 A. Absolutely.</p> <p>2 Q. All right. So turning then from the</p> <p>3 Spangenberg report that I marked as Exhibit 21, I</p> <p>4 want to turn your attention to the report you --</p> <p>5 you've mentioned earlier in your testimony and</p> <p>6 that's the NJDC assessment entitled Justice</p> <p>7 Rationed. And here too confusingly you'll see that</p> <p>8 this exhibit that I'm marking as Plaintiff's</p> <p>9 Exhibit 22 for purposes of our deposition, has the</p> <p>10 cover Exhibit 9.</p> <p>11 (WHEREIN, Exhibit 22, Exhibit 9 of</p> <p>12 complaint, was marked for identification.)</p> <p>13 A. Okay.</p> <p>14 Q. (By Ms. Quinn) Exhibit 9 refers to it</p> <p>15 being Exhibit 9 in our complaint. All right. So as</p> <p>16 to Exhibit 22, are you familiar with that document?</p> <p>17 A. Yes, I am.</p> <p>18 Q. Tell us what you know about this</p> <p>19 document.</p> <p>20 A. So this was conducted or written in</p> <p>21 2013. I know that NJDC came and interviewed defense</p> <p>22 attorneys, juvenile attorneys, looked at and talked</p> <p>23 with the Office of State Courts Administrator Scott</p> <p>24 Data regarding representation in Missouri and then</p> <p>25 made an assessment of the quality of representation</p>	<p>1 Q. And do you remember anything in the</p> <p>2 report about its findings with regard to the</p> <p>3 quantity of youth who were receiving defense</p> <p>4 representation from the public defender service or</p> <p>5 maybe said another way the percentage of youth who</p> <p>6 were going without representation in the juvenile</p> <p>7 courts?</p> <p>8 A. I don't remember the exact number, but</p> <p>9 I know that it was alarmingly high.</p> <p>10 Q. All right. You'd indicated this was a</p> <p>11 report that was put together by NJDC, the National</p> <p>12 Juvenile Defender Center in 2013. Do you have a</p> <p>13 sense of how they came to these conclusions?</p> <p>14 A. So they came to the conclusions by</p> <p>15 interviewing defenders in Missouri and in -- in</p> <p>16 talking to individuals in the court system as well</p> <p>17 as looking at data.</p> <p>18 Q. Okay. And based on your experience</p> <p>19 with the public defender system and working within</p> <p>20 our juvenile courts, do you disagree with any of</p> <p>21 their findings?</p> <p>22 A. I do not.</p> <p>23 Q. And even though this report was from</p> <p>24 2013, as you sit here today, do you feel like much</p> <p>25 has changed with regard to their findings?</p>

8 (Pages 29 to 32)

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<p>1 A. I think that for the most part, no, I 2 think that there -- there is some inching along that 3 has done and maybe some good intentions, but no, for 4 the most part this report rings true.</p> <p>5 Q. Maybe you could flag for us a few of 6 the good intention items and how you have 7 characterized them as just inching along.</p> <p>8 A. Sure. So one of the things is that we 9 in the public defender system have identified that 10 yes, this is an issue, and I am somebody who is 11 supposed to start to create juvenile specialty as -- 12 as something of importance in our system. We want 13 to do trainings, we want to make sure that juvenile 14 defenders are receiving adequate training. But this 15 is just a small step, and so that is one thing. The 16 other thing is there are organizations and groups 17 trying to move forward, so I am a part of the 18 Juvenile Justice Advisory Board. And so that is 19 also trying to move the ball forward with regard to 20 juvenile representation in the state.</p> <p>21 Q. And the Juvenile Justice Advisory 22 Board, that's a state-appointed position; is that 23 right?</p> <p>24 A. It is.</p> <p>25 Q. All right. And we'll return to some of</p>	<p>1 A. I don't know the exact steps that they 2 use, but I know that they went into St. Louis County 3 Family Court, they spoke with defenders, they spoke 4 with deputy juvenile officers, they spoke with legal 5 officers and they also looked at individual files.</p> <p>6 Q. All right. And can you share with us 7 your understanding of the findings of the Department 8 of Justice with regard to the St. Louis County 9 juvenile court?</p> <p>10 A. Sure. So they made several findings. 11 They found that there was not adequate 12 representation with regard to youth primarily 13 because the -- there was only one defender that was 14 representing all of the youth. She had represented 15 over 400 youth in the time period that they looked 16 at. They also looked at children waiving counsel.</p> <p>17 They looked at children admitting in 18 informal -- informal offenses, admitting to the 19 allegations, which is something that was 20 problematic. They were admitting to those 21 allegations without representation. They looked at 22 representation of children pretrial. They looked at 23 motion practice. They found the motion practice 24 problematic.</p> <p>25 They looked at post -- postdisposition</p>
Page 34	Page 36
<p>1 the topics that we just lifted up to unpack them a 2 little bit more, but let me turn your attention if I 3 can to another document that you have previously 4 mentioned.</p> <p>5 (WHEREIN, Exhibit 23, Exhibit 11 of 6 complaint, was marked for identification.)</p> <p>7 Q. (By Ms. Quinn) This will be Exhibit 23 8 for purposes of the deposition with a cover 9 indicating Exhibit 11 because it's Exhibit 11 to our 10 complaint. All right. Would you mind taking a look 11 at Exhibit 23, please?</p> <p>12 A. Sure.</p> <p>13 Q. Okay. And are you familiar with this 14 document?</p> <p>15 A. Yes, I am.</p> <p>16 Q. Can you tell us what it is and why 17 you're familiar with it?</p> <p>18 A. So this is the investigation of the 19 St. Louis County Family Court from 2015. I am 20 familiar with it having been in practice and 21 practicing as a juvenile attorney during that time. 22 I've read it and used it in motions.</p> <p>23 Q. All right. And are you at all familiar 24 with what the Department of Justice did to come to 25 these conclusions?</p>	<p>1 practice. They found that there was not 2 postdisposition representation. They also found 3 that there were equal protection violations. So 4 youth of color were being detained, they were being 5 filed, petitions were being filed more frequently, 6 they were being sent out of home placement, and they 7 were also being certified more frequently than youth 8 of other races.</p> <p>9 Q. Now, you've indicated that the report 10 found that there was only one public defender 11 assigned to the county of St. Louis's juvenile 12 court, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Can you explain to us based on your 15 experience in that setting how many courtrooms in a 16 given day that a defender might have cases in or how 17 many courtrooms are processing cases each day there?</p> <p>18 A. Sure. So there are two judges. So 19 there could -- those would be two courtrooms. And 20 then there are currently two commissioners and I 21 believe that -- there have always been only two 22 commissioners. So four courtrooms.</p> <p>23 Q. Four courtrooms. And then what about 24 detention hearings, is that another docket that 25 might take place on a given day over there at the</p>

9 (Pages 33 to 36)

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<p>1 county juvenile court?</p> <p>2 A. Sure. So that different -- is a</p> <p>3 different practice from St. Louis City, but in</p> <p>4 St. Louis County there are detention hearings every</p> <p>5 morning at 8:30 a.m.</p> <p>6 Q. All right. So a total of five</p> <p>7 different dockets that a defender might be called</p> <p>8 upon to participate in in a given day at the county</p> <p>9 juvenile court?</p> <p>10 A. Yes.</p> <p>11 Q. And then in each one of those court</p> <p>12 settings, how many prosecutors -- and we'll clarify</p> <p>13 what that term means, prosecutors are there assigned</p> <p>14 to handle those dockets?</p> <p>15 A. I don't know specifically, but I know</p> <p>16 that there is one assigned to each courtroom, at</p> <p>17 least one assigned to each courtroom. There might</p> <p>18 be more.</p> <p>19 Q. And I'll try -- I've shifted us to the</p> <p>20 future or the -- the present, but let me -- I'll --</p> <p>21 I'll keep our attention back on 2015. In 2015 when</p> <p>22 the DOJ report was written, was it the practice of</p> <p>23 the county juvenile court to assign a juvenile</p> <p>24 prosecutor to each of those five different</p> <p>25 courtrooms to cover the dockets?</p>	<p>1 representing the probation officers essentially in</p> <p>2 all of these proceedings?</p> <p>3 A. That's correct.</p> <p>4 Q. And this set of findings that the</p> <p>5 Department of Justice made relating to the county</p> <p>6 juvenile court, in your opinion based on your</p> <p>7 experience practicing across the state, were those</p> <p>8 findings unique to St. Louis County?</p> <p>9 A. No.</p> <p>10 Q. Can you tell us more about that?</p> <p>11 A. With regard to representation, I can't</p> <p>12 speak to every single county in Missouri, but I know</p> <p>13 that the representation for youth is not necessarily</p> <p>14 done by a juvenile specialist. I don't know how</p> <p>15 many children are waiving the right to counsel and</p> <p>16 admitting, so I think that's another thing that is a</p> <p>17 problem across the state, as well as admitting to</p> <p>18 informal allegations without an attorney present.</p> <p>19 With regard to the equal protection</p> <p>20 violations, I have only practiced in the city and I</p> <p>21 only know the statistics in the city, but I would</p> <p>22 believe that those statistics ring true across the</p> <p>23 state.</p> <p>24 Q. And just to clarify, you just there</p> <p>25 said that you only practiced in the city, but you</p>
Page 38	Page 40
<p>1 A. Yes.</p> <p>2 Q. And in contrast, there was a single</p> <p>3 public defender assigned to cover those five</p> <p>4 dockets?</p> <p>5 A. That's correct.</p> <p>6 Q. And I've used the word prosecutor to</p> <p>7 talk about persons who are filing and prosecuting</p> <p>8 cases in juvenile court. Is that the usual term we</p> <p>9 use here in Missouri?</p> <p>10 A. No. The usual term is either legal</p> <p>11 officer or attorney for the deputy juvenile officer.</p> <p>12 Q. And just so the record is clear for</p> <p>13 folks who maybe don't know this practice, can you</p> <p>14 explain that a little bit more?</p> <p>15 A. Sure. So the attorney who is</p> <p>16 prosecuting cases is also the attorney for -- who is</p> <p>17 a person who is called the deputy juvenile officer.</p> <p>18 They are the individual who can help file the case,</p> <p>19 question the youth, make a recommendation as to the</p> <p>20 placement of the youth, and then supervise the youth</p> <p>21 once the disposition has completed.</p> <p>22 Q. Okay. And so deputy juvenile officer</p> <p>23 might be seen as akin to a probation officer?</p> <p>24 A. Yes.</p> <p>25 Q. So these prosecutors are actually</p>	<p>1 practiced in -- in other counties as well?</p> <p>2 A. I have, but I do not know the number,</p> <p>3 the statistical numbers with regard to the equal</p> <p>4 protection violations.</p> <p>5 Q. Got you. So you've just now indicated</p> <p>6 that in terms of the quality of representation</p> <p>7 provided in St. Louis County's juvenile court as</p> <p>8 described by DOJ in 2015 is consistent with your</p> <p>9 impressions of the quality of practice across the</p> <p>10 state in 2015; is that correct?</p> <p>11 A. Yes, and I -- and I believe -- to</p> <p>12 clarify a little bit, I believe that the number of</p> <p>13 cases, I believe that if the attorney had had less</p> <p>14 cases that she would have been able to adequately</p> <p>15 represent the youth.</p> <p>16 Q. Yes. And I will turn to that.</p> <p>17 A. Right.</p> <p>18 Q. So there's the -- the quality which</p> <p>19 sounds like in your opinion is greatly impacted by</p> <p>20 the quantity?</p> <p>21 A. Yes.</p> <p>22 Q. And the, for instance, needing to cover</p> <p>23 five courtrooms to defend against five prosecutors</p> <p>24 on your own?</p> <p>25 A. Correct.</p>

10 (Pages 37 to 40)

<p style="text-align: right;">Page 41</p> <p>1 Q. In terms of the quantity and the 2 expectations for defenders in other counties, would 3 you in your opinion say that that disparity in terms 4 of what's provided to the defender as compared to 5 the prosecution exists across the state? 6 A. Absolutely. And I think with a little 7 bit of a difference. I think a lot of jurisdictions 8 have a lot of adult cases, and only a handful of 9 juvenile cases. And so the disparity exists not in 10 the number of juvenile cases, but in the lack of 11 time and the ability to spend focusing on those 12 juvenile cases, as well as the specialization. 13 Q. All right. So let me turn your 14 attention to what I'm going to call for purposes of 15 this deposition Plaintiff's Exhibit 24 -- 16 (WHEREIN, Exhibit 24, Exhibit 8 of 17 complaint, was marked for identification.) 18 Q. (By Ms. Quinn) -- which has a cover 19 indicating Exhibit 8 because it's Exhibit 8 for our 20 complaint. Can you take a look at Exhibit 24 and 21 tell us if you recognize it? 22 A. I do. 23 Q. And what is this document? 24 A. It is a letter that our director, 25 Michael Barrett, wrote to the then governor of</p>	<p style="text-align: right;">Page 43</p> <p>1 complaint. Do you recognize that document? 2 A. I do. 3 Q. And what is it? 4 MS. SHIPMA: Could we go off the record 5 for just a moment? 6 MS. QUINN: Sure, uh-huh. 7 VIDEOGRAPHER: We're going off the 8 record at approximately 9:48 a.m. 9 (WHEREIN, a discussion was held off the 10 record.) 11 VIDEOGRAPHER: We're back on the record 12 at approximately 9:50 a.m. 13 Q. (By Ms. Quinn) All right. We just 14 took a break so that I could correct an imperfection 15 in our exhibit, and before we took a break we were 16 talking about Exhibit 25, and I think I asked if you 17 recognize that document. 18 A. I do. 19 Q. Notice I didn't use this scrolly thing. 20 I'm sorry. And -- and what is Exhibit 25? 21 A. It is the memorandum of agreement 22 between the U.S. DOJ and St. Louis County Family 23 Court. 24 Q. And what is your understanding of the 25 meaning of that agreement and what it does?</p>
<p style="text-align: right;">Page 42</p> <p>1 Missouri. 2 Q. And you've seen this before? 3 A. I have. 4 Q. And what is it that Director Barrett is 5 telling the governor in this letter? 6 A. He outlines the Department of Justice, 7 the -- the problems that were found in that report. 8 He talks about the resources and the fact that we do 9 not have the ability to represent indigent persons 10 given the current budget. 11 Q. And in reviewing this letter, is there 12 anything about it that you believe to be untrue or 13 that you disagree with? 14 A. No. 15 Q. And is the position of Director Barrett 16 in particular with regard to the problem of the 17 juvenile defender system being in crisis, do you 18 agree with that? 19 A. I do. 20 (WHEREIN, Exhibit 25, Exhibit 12 of 21 complaint, was marked for identification.) 22 Q. (By Ms. Quinn) All right. So I'd like 23 to turn your attention now to Plaintiff's Exhibit 25 24 for purposes of the deposition. You'll note the 25 cover says Exhibit 12 because it's Exhibit 12 to our</p>	<p style="text-align: right;">Page 44</p> <p>1 A. So -- so it was an agreement reached by 2 a number of parties including St. Louis County 3 Family Court and it lays out specific findings and 4 agreements between the parties. 5 Q. And with regard to defense services, is 6 there anything in that document that speaks to that 7 topic? 8 A. Sure. So several different things. 9 One is that for any youth who is detained and not 10 represented, the public defender system shall be 11 appointed. If they are not detained and they are 12 not deemed indigent, they can go to a number of 13 contract attorneys. There is one specific contract 14 attorney who has been hired by the county to 15 represent youth and there is also a panel of 16 contract attorneys who are also able to represent 17 youth. 18 Q. And so is the upshot of this agreement 19 with regard to defender services that one more 20 defender has been assigned to assist with juvenile 21 cases in St. Louis County? 22 A. Correct. At least one. And I don't 23 know the numbers of -- or of how many youth the 24 other contract attorneys are representing. 25 Q. But prior to the agreement there was</p>

11 (Pages 41 to 44)

<p style="text-align: right;">Page 45</p> <p>1 also a panel of -- of conflict or contract attorneys 2 that existed? 3 A. Sure. 4 Q. And is that any different now? 5 A. Just a little bit because these are not 6 necessarily conflict attorneys. So these are 7 attorneys for youth who don't qualify for the public 8 defender's services. So in practice they could be 9 representing more youth, but I don't know the answer 10 to how many youth they're representing. 11 Q. Okay. And we might be getting kind of 12 deep into the weeds on this one, but I reference a 13 single attorney who seems to be designated as an 14 additional defender for delinquency cases in the 15 county. 16 A. Correct. Yes. 17 Q. And that person's name is Quinn Grimes? 18 A. That's right. 19 Q. And does Quinn handle cases of kids who 20 are indigent? 21 A. I believe so, yes. 22 Q. Okay. And the panel is for folks who 23 would not otherwise qualify for the public defender 24 services? 25 A. You are correct.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. And previously they were not receiving 2 access to counsel on a regular basis? 3 A. That is correct. 4 Q. So Quinn's time sounds like is a fair 5 amount spent on those informal cases? 6 A. I don't know the answer to that 7 question. 8 Q. Okay. Do you know if she's handling 9 certifications? 10 A. I don't know the answer to that 11 question. 12 Q. All right. With regard to Exhibit 25, 13 does that agreement impact any other county in the 14 State of Missouri other than St. Louis County? 15 A. It does not. 16 Q. And so while we now have one additional 17 attorney with -- so a total of two public 18 defender-type attorneys handling five dockets in the 19 county, there's been no similar change in other 20 counties? 21 A. That's correct. 22 (WHEREIN, Exhibit 26, Exhibit 7 of 23 complaint, was marked for identification.) 24 Q. (By Ms. Quinn) All right. I'd like to 25 share with you what we're going to call Exhibit 26</p>
<p style="text-align: right;">Page 46</p> <p>1 Q. So the public defender's services 2 essentially have been expanded one fold or you have 3 one additional attorney assigned in the county to 4 assist with those five dockets we talked about 5 earlier? 6 A. Correct. But that person is not hired 7 by the public defender's office and she does not 8 work with the public defender system. 9 Q. And she's receiving funds from 10 elsewhere; is that right? 11 A. That is correct. 12 Q. Do you know much about what she handles 13 in terms of cases or what she's assigned? 14 A. Sure. I know a little bit. I know 15 that she does delinquency cases and I know that she 16 also handles the informal adjustments. 17 Q. And the informal adjustments are those 18 matters that you referenced earlier where youth 19 might be diverted off the ordinary prosecution 20 track, but there are concerns about admission being 21 made in the context of those informal cases? 22 A. That's correct. 23 Q. And by Missouri law, youth are entitled 24 to counsel at those proceedings, correct? 25 A. That is correct.</p>	<p style="text-align: right;">Page 48</p> <p>1 for purposes of the deposition. It has a cover 2 indicating Exhibit 7 because it's Exhibit 7 to our 3 complaint. Can you look at this document and let us 4 know if you recognize it? 5 A. Yes, I do. 6 Q. All right. And what is this document? 7 A. This is the RubinBrown study done of 8 the Missouri public defender's system. 9 Q. And did you participate in the 10 timekeeping required for this study? 11 A. Yes, I did. 12 Q. Can you explain a little bit to us 13 about what timekeeping entailed? 14 A. Sure. So there was a system on our 15 computer where you could document how much time you 16 spent for a particular task, and you did it in 17 five-minute increments. 18 Q. And this was a change in practice in 19 terms of how you might record your time previously, 20 yes? 21 A. Yes. 22 Q. More detailed? 23 A. Yes. 24 Q. More onerous? 25 A. Yes.</p>

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<p>1 Q. Did it take time to keep your time?</p> <p>2 A. Absolutely.</p> <p>3 Q. Are you aware of any similar system</p> <p>4 ever imposed on the prosecutors in the State of</p> <p>5 Missouri?</p> <p>6 A. I am not.</p> <p>7 Q. Have you ever heard of the legal</p> <p>8 officers over there in juvenile court being forced</p> <p>9 to keep track of their time to justify their</p> <p>10 existence?</p> <p>11 A. I have not.</p> <p>12 Q. Okay. So in terms of findings this</p> <p>13 RubinBrown study made findings relating to cases</p> <p>14 across the criminal and juvenile justice systems in</p> <p>15 Missouri, correct?</p> <p>16 A. Yes.</p> <p>17 Q. With regard to juveniles, what is your</p> <p>18 understanding of the finding relating to -- to</p> <p>19 juvenile defense matters?</p> <p>20 A. Could you be a little bit more</p> <p>21 specific.</p> <p>22 Q. Sure. On page 15 in the section with a</p> <p>23 title here I think it's time study in section C --</p> <p>24 A. Sure.</p> <p>25 Q. -- it has a list of average reportable</p>	<p>1 Q. On a -- on a juvenile case. And do you</p> <p>2 know if there are any differences on how the ABA</p> <p>3 measured juvenile case time on average versus this</p> <p>4 study?</p> <p>5 A. I do not.</p> <p>6 Q. So for instance, if we take a look at</p> <p>7 the RubinBrown study, you know, it suggests</p> <p>8 19.5 hours for a juvenile case, but a juvenile case</p> <p>9 might wind up in adult court, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And so if a juvenile case moved from</p> <p>12 juvenile court into adult court and we were dealing</p> <p>13 with a homicide charge, what is the number of hours</p> <p>14 the report, RubinBrown report says should be spent</p> <p>15 on a homicide case?</p> <p>16 A. 106.6.</p> <p>17 Q. And then how much time on page 15 is</p> <p>18 it -- does RubinBrown study suggest is being spent</p> <p>19 on a homicide case on average in Missouri?</p> <p>20 A. 84.5.</p> <p>21 Q. And now reviewing this report, is there</p> <p>22 anything about it that seems inaccurate to you in</p> <p>23 terms of the amount of time being spent on average</p> <p>24 by colleagues across the state on these cases?</p> <p>25 MR. MOORE: Just object to the</p>
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<p>1 controllable case task hours per case. Do you see</p> <p>2 that section?</p> <p>3 A. I do.</p> <p>4 Q. And what findings were made with regard</p> <p>5 to how much time on average in the State of Missouri</p> <p>6 is being spent on juvenile matters?</p> <p>7 A. 4.6 hours.</p> <p>8 Q. So -- and to be clear, 4.6 matters on</p> <p>9 juvenile delinquency defense cases, yes?</p> <p>10 A. That's correct.</p> <p>11 Q. And are you aware of what this study</p> <p>12 suggested as a appropriate amount of time to be</p> <p>13 spent on -- as a -- an appropriate amount of time to</p> <p>14 be spent on such matters?</p> <p>15 A. The study or the AB --</p> <p>16 Q. The study.</p> <p>17 A. Okay.</p> <p>18 (Court reporter interruption.)</p> <p>19 A. ABA standard. 19.5.</p> <p>20 Q. (By Ms. Quinn) All right. And you</p> <p>21 mentioned another standard. Will you share some</p> <p>22 about that?</p> <p>23 A. Sure. So the ABA standards require</p> <p>24 approximately ten hours, I believe, on a -- on a</p> <p>25 juvenile case.</p>	<p>1 foundation of the question. Subject to that, you</p> <p>2 can answer.</p> <p>3 A. I -- say -- would you ask the question</p> <p>4 again?</p> <p>5 Q. (By Ms. Quinn) Yes. Does it seem</p> <p>6 about right to you that such a limited amount of</p> <p>7 time is being spent on juvenile cases across the</p> <p>8 state?</p> <p>9 MR. MOORE: Same objection. Go ahead.</p> <p>10 A. I can tell you I do not disagree with</p> <p>11 the findings of the -- of the report.</p> <p>12 Q. (By Ms. Quinn) All right. So we're</p> <p>13 going to talk a little bit now about policies and</p> <p>14 procedures generally, maybe a little less about</p> <p>15 these documents. Do you -- do you want to take a</p> <p>16 break?</p> <p>17 A. No, I'm okay.</p> <p>18 MS. QUINN: Anyone? Okay.</p> <p>19 Q. (By Ms. Quinn) So in terms of juvenile</p> <p>20 practice you did mention earlier there are some</p> <p>21 trainings that are now taking place. What about</p> <p>22 juvenile case policy manuals, is there any statewide</p> <p>23 policy manual for juvenile defense cases?</p> <p>24 A. Not currently.</p> <p>25 Q. What about a case procedures manual?</p>

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<p>1 So say separately from policies about how the system 2 might process cases or document cases. What about 3 procedures for actually handling such matters, the 4 attorney actions and tasks, is there a manual for 5 that? 6 MS. SHIPMA: And Mae, could I just -- 7 and you mean MSPD manuals? 8 MS. QUINN: Yes, yes. 9 MS. SHIPMA: Thank you for clarifying. 10 MS. QUINN: Uh-huh. Statewide. 11 A. Not currently. Not currently. 12 Q. (By Ms. Quinn) Is there a training 13 manual for new attorneys who may be handling 14 juvenile cases statewide? 15 A. Not currently. 16 Q. What kind of training do new hires to 17 MSPD receive? 18 A. You mean generally? 19 Q. Generally. 20 A. Sure. So there are two trainings. 21 There is a new defender workshop. It's a week-long 22 workshop that is given. There is also trial skills 23 that's usually -- one is usually in the summer and 24 one is usually around mid-year. 25 Q. All right. And -- and let me back up a</p>	<p>1 Q. So you might be in court handling 2 matters, but you've not participated in any kind of 3 specialized training relating to your job? 4 A. Potentially, yes. 5 Q. Now, in either one of these two 6 trainings that are provided as a matter of course, 7 is there any component that relates to juvenile 8 practice? 9 A. Not currently. 10 Q. So just so -- so we're clear, there's 11 an annual defender training that takes place that 12 any defender can attend? 13 A. Any new. 14 Q. Any new defender can attend? 15 A. Yes. 16 Q. And it has no information about 17 juvenile cases? 18 A. Not to my knowledge. 19 Q. And then a trial skills training is a 20 different training, yes? 21 A. Yes. 22 Q. And it too does not at all relate to 23 juvenile practice? 24 A. Not to my knowledge. 25 Q. And a trial in an adult court is quite</p>
Page 54	Page 56
<p>1 bit. No one is hired at this point as a designated 2 juvenile defender in the State of Missouri, correct? 3 A. Aside from myself? 4 Q. Yes. 5 A. And Katrina Jones would be the other 6 juvenile defender. 7 Q. Well, when you post for jobs -- 8 A. Oh, sure. 9 Q. -- it's public defender for Hannibal or 10 public defender for wherever, but no designation of 11 a specialized juvenile defender, correct? 12 A. You are correct. 13 Q. And so someone is hired on and they go 14 through some upfront training to learn the job? 15 A. Yes. 16 Q. You've mentioned two possible trainings 17 they would attend? 18 A. Yes. 19 Q. Do defenders before they hit the ground 20 and receive cases necessarily participate in both of 21 those trainings you've just mentioned? 22 A. Not right away. They are required as a 23 new attorney, but they don't -- it's not the first 24 week on the job that they necessarily receive that 25 training.</p>	<p>1 different from a trial in a juvenile court, correct? 2 A. Absolutely. 3 Q. Tell us a little bit about why. 4 A. So a juvenile trial is going to be in 5 front of a judge, so it's going to be a bench trial. 6 So there are differences in strategy that you would 7 use. Also, there is the element of having a parent 8 sitting at counsel table with you, so that's a 9 difference between juvenile court and adult court. 10 Also, knowledge of adolescent brain development, the 11 potential to use juvenile-specific jury 12 instructions, case law is going to be different, 13 just to name a few differences. 14 Q. Okay. Now, beyond trainings for new 15 defenders, is -- is there any kind of training that 16 might be offered relating to juvenile practice? 17 A. Yes. 18 Q. And -- and what is that training? 19 A. So that is the once-a-year juvenile 20 training put on by the public defender system. 21 Q. Now, that training is relatively new, 22 correct? 23 A. It is. 24 Q. Do you know how long ago MSPD began to 25 put on juvenile-focused trainings for its lawyers?</p>

14 (Pages 53 to 56)

Page 57	Page 59
<p>1 A. I believe it began in the winter of 2 2014.</p> <p>3 Q. So when we're saying every year, it's 4 only been two years or three years, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And do you have any sense how many 7 people attended that first winter 2014 training?</p> <p>8 A. I don't.</p> <p>9 Q. Were you present?</p> <p>10 A. I was on maternity leave.</p> <p>11 Q. That is right. And what about the next 12 training after that?</p> <p>13 A. So the training in 2015, approximately 14 30 attorneys.</p> <p>15 Q. And what about the most recent? I 16 think it would be the most recent, 2016 training?</p> <p>17 A. No, 2017 would be the most recent 18 training.</p> <p>19 Q. Okay.</p> <p>20 A. Probably 20 to 25 attorneys.</p> <p>21 Q. And how many attorneys total, if you 22 know, practice as public defenders in the State of 23 Missouri?</p> <p>24 A. I don't know the exact number.</p> <p>25 Q. Would it be safe to say only a small</p>	<p>1 A. Myself, Katrina Jones, so that's two. 2 Sue Rinne, that's three. Mary Fox, that's four. 3 Courtney Goodwin, that's five. And yourself, so 4 six.</p> <p>5 Q. And are you familiar with Katrina Jones 6 being unable to participate in the JTIP program at 7 some point?</p> <p>8 A. I don't -- I don't know.</p> <p>9 Q. Okay. Did you find the JTIP program to 10 be helpful to you?</p> <p>11 A. Absolutely.</p> <p>12 Q. Are you aware of any other 13 juvenile-focused opportunities -- well, strike that. 14 I'm going to turn to another document. 15 I think we're on Exhibit 27 at this point?</p> <p>16 MS. SHIPMA: Uh-huh. 17 (WHEREIN, Exhibit 27, New Attorney 18 Toolbox, was marked for identification.)</p> <p>19 Q. (By Ms. Quinn) Would you mind taking a 20 look at Exhibit 27, please?</p> <p>21 A. Okay.</p> <p>22 Q. Have you seen this document before?</p> <p>23 A. No.</p> <p>24 Q. All right. The cover of this document, 25 would you mind indicating for the record what --</p>
Page 58	Page 60
<p>1 percentage of the attorneys in the state of 2 Missouri's public defender system have been trained 3 specifically relating to juvenile practices?</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar with a program called 6 JTIP?</p> <p>7 A. I am.</p> <p>8 Q. And what is JTIP?</p> <p>9 A. JTIP is the Juvenile Training Immersion 10 Program.</p> <p>11 Q. And do you know who came up with this 12 program and what it entails?</p> <p>13 A. Sure. It is a collaboration between 14 Kris Henning from Georgetown University and the 15 National Juvenile Defender Center, and it is a set 16 of training specifically related to topics in 17 juvenile law.</p> <p>18 Q. And is it a training that individuals 19 from any state might be able to participate in?</p> <p>20 A. Yes.</p> <p>21 Q. Are you familiar with the number of 22 Missouri defenders who have been trained in JTIP 23 best practices?</p> <p>24 A. Yes.</p> <p>25 Q. How many?</p>	<p>1 what it's -- how it's labeled?</p> <p>2 A. It says New Attorney Toolbox: Guide to 3 Area Ten and Other Important Stuff.</p> <p>4 Q. And then on the bottom of it, where is 5 it -- where is area ten?</p> <p>6 A. Hannibal.</p> <p>7 Q. Are you familiar with practices in 8 Hannibal or area ten?</p> <p>9 A. No, I am not.</p> <p>10 Q. Have you ever seen one of these 11 toolbox-type training documents before?</p> <p>12 A. No, I have not.</p> <p>13 Q. So let's if we can walk through this 14 together. If you would turn to page -- I don't 15 think the pages are numbered, but it is two, three, 16 four, five, at the bottom it's MSPD 5668 Bates stamp 17 on the bottom.</p> <p>18 A. Okay.</p> <p>19 Q. Here on this page it appears the 20 Hannibal area ten office is providing information 21 about poverty guidelines, correct?</p> <p>22 A. That's what it looks like.</p> <p>23 Q. And it says public defender guidelines 24 and there are some charts or there is a chart on 25 this page, yes?</p>

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<p>1 A. Yes.</p> <p>2 Q. Have you seen this chart before?</p> <p>3 A. I -- I have no idea if I've seen this</p> <p>4 chart before. It doesn't look familiar to me.</p> <p>5 Q. Okay. I'll direct your attention to a</p> <p>6 section that says towards the bottom (quote as</p> <p>7 read):</p> <p>8 Parents' income considered if D is</p> <p>9 under 18, a full-time student, or</p> <p>10 dependent on parents or if parents or a</p> <p>11 relative post bond.</p> <p>12 Have you seen that kind of terminology</p> <p>13 before?</p> <p>14 A. No.</p> <p>15 Q. Can you tell us if this is the practice</p> <p>16 across the state?</p> <p>17 A. I can tell you that children file --</p> <p>18 they fill out -- they fill out an application, but</p> <p>19 they traditionally are accepted and not based on</p> <p>20 their parents' income.</p> <p>21 Q. All right.</p> <p>22 A. And that's based on my practice in</p> <p>23 St. Louis city.</p> <p>24 Q. All right. So the practice in</p> <p>25 St. Louis city is that a child actually fills out a</p>	<p>1 the question. I think it misstates her prior</p> <p>2 testimony that she assists the children in filling</p> <p>3 out the form, but subject to that the answer is</p> <p>4 already in the record, so we can continue.</p> <p>5 Q. (By Ms. Quinn) Do you want to clarify</p> <p>6 anything?</p> <p>7 A. No.</p> <p>8 Q. Okay. So in the city all young people</p> <p>9 in the court system receive appointment at the front</p> <p>10 end of a case for the public defender's</p> <p>11 representation?</p> <p>12 A. Yes.</p> <p>13 Q. Thereafter a screening is done to</p> <p>14 determine if they qualify for public defender</p> <p>15 services?</p> <p>16 A. And if they want an attorney from the</p> <p>17 public defender's office.</p> <p>18 Q. In terms of the qualifying, it's the</p> <p>19 policy and practice of the city that all children</p> <p>20 are deemed indigent because they're under 18 and</p> <p>21 cannot work to support themselves, correct?</p> <p>22 A. Yes.</p> <p>23 Q. But that is not the practice across the</p> <p>24 state?</p> <p>25 A. I don't know.</p>
Page 62	Page 64
<p>1 form seeking a public defender?</p> <p>2 A. No. So the practice is that they are</p> <p>3 appointed an attorney with the public defender's</p> <p>4 office. We ensure that they want an attorney from</p> <p>5 the public defender's office and they fill out an</p> <p>6 application. But my practice, we have not turned</p> <p>7 away children based on indigency.</p> <p>8 Q. Okay. So just so I'm clear again, so</p> <p>9 in the city the court appoints the public defender</p> <p>10 to a child's case, yes?</p> <p>11 A. Yes.</p> <p>12 Q. And thereafter an assessment of</p> <p>13 indigence is undertaken; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And is it the child that fills out the</p> <p>16 form or somebody else?</p> <p>17 A. No. I help the child fill out the</p> <p>18 form.</p> <p>19 Q. But just -- and let me be clear. So</p> <p>20 it's not the parent --</p> <p>21 A. No.</p> <p>22 Q. -- who fills out the form, it's the</p> <p>23 child in St. Louis city?</p> <p>24 A. Yes.</p> <p>25 MR. MOORE: I'll object to the form of</p>	<p>1 Q. Do you know if that is the practice in</p> <p>2 St. Louis County?</p> <p>3 A. I don't know. I know that they fill</p> <p>4 out applications, but I don't know anything beyond</p> <p>5 that.</p> <p>6 Q. Do you know who fills out the</p> <p>7 application in St. Louis County?</p> <p>8 A. I do not.</p> <p>9 Q. What about St. Charles County?</p> <p>10 A. I do not.</p> <p>11 Q. What about those other places you do --</p> <p>12 do cases?</p> <p>13 A. I do not know. Usually by the time we</p> <p>14 get the cases in the other jurisdictions, a -- an --</p> <p>15 a defender from that jurisdiction has entered and</p> <p>16 deemed it a conflict, so they have at some point</p> <p>17 determined indigency and then conflicted the case to</p> <p>18 our office.</p> <p>19 Q. You're coming in later so you don't</p> <p>20 know what happened --</p> <p>21 A. Correct.</p> <p>22 Q. -- on the front end?</p> <p>23 A. That's correct.</p> <p>24 Q. So I want to turn our attention back to</p> <p>25 this area ten tool kit. Can you, if you would,</p>

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<p style="text-align: right;">Page 65</p> <p>1 please, look through the forms that are in here</p> <p>2 looking at documents such as the penalty worksheet,</p> <p>3 the case log, client interview form, waiver of</p> <p>4 preliminary hearing form, protocol form, DWI client</p> <p>5 questionnaire form. Look through the whole document</p> <p>6 really if you don't mind.</p> <p>7 MS. SHIPMA: And Sarah, take your time</p> <p>8 to look at --</p> <p>9 MS. QUINN: Yeah.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 MS. QUINN: You know, if it's all</p> <p>12 right, we can go off the record because I wouldn't</p> <p>13 mind to take a little time to take a look at this</p> <p>14 and then for me to -- to look at this document as</p> <p>15 well. So if it's all right, can we go off the</p> <p>16 record?</p> <p>17 VIDEOGRAPHER: We're going off the</p> <p>18 record at approximately 10:15 a.m.</p> <p>19 (WHEREIN, a recess was taken.)</p> <p>20 VIDEOGRAPHER: We're back on the record</p> <p>21 at approximately 10:24 a.m.</p> <p>22 Q. (By Ms. Quinn) All right.</p> <p>23 Ms. Johnson, we just took a break, but before the</p> <p>24 break I asked you to take a look at this area ten</p> <p>25 new attorney toolbox document, correct?</p>	<p style="text-align: right;">Page 67</p> <p>1 A. Yes.</p> <p>2 Q. And I think, correct me if I'm wrong,</p> <p>3 but your opinion might be that St. Louis city as an</p> <p>4 office tries to set the bar of best practices for</p> <p>5 the city -- for the state of Missouri's juvenile</p> <p>6 defenders?</p> <p>7 A. When you say St. Louis city you mean</p> <p>8 the public defender's office?</p> <p>9 Q. Yes. Uh-huh.</p> <p>10 A. Yes.</p> <p>11 Q. It's one of the few offices that has a</p> <p>12 dedicated juvenile defender?</p> <p>13 A. Yes.</p> <p>14 Q. And so therefore you try your best to</p> <p>15 become a model for other attorneys who are doing</p> <p>16 juvenile practice across the state?</p> <p>17 A. I do.</p> <p>18 Q. But are you able to do everything you</p> <p>19 think you need to do as a defender on the cases you</p> <p>20 handle?</p> <p>21 A. No.</p> <p>22 Q. Do you have a policy manual in</p> <p>23 St. Louis city for juvenile defense cases?</p> <p>24 A. Myself?</p> <p>25 Q. The office.</p>
<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. Having now reviewed that document, did</p> <p>3 you see anything in there relating to juvenile</p> <p>4 practice?</p> <p>5 A. I did not.</p> <p>6 Q. But to be fair, you don't -- you've</p> <p>7 never seen this document before?</p> <p>8 A. I have not.</p> <p>9 Q. You don't know if this is still the</p> <p>10 current toolbox tool kit given to Hannibal area</p> <p>11 attorneys?</p> <p>12 A. I do not.</p> <p>13 Q. But if it was, do you have an opinion</p> <p>14 about whether this is sufficient to bring new</p> <p>15 attorneys up to speed relating to their</p> <p>16 responsibilities for juvenile clients?</p> <p>17 MR. MOORE: Also object to the form of</p> <p>18 the question. I think it's a little vague. Subject</p> <p>19 to that, you can respond.</p> <p>20 A. As there is nothing with regard to</p> <p>21 juvenile clients, I would say no, it is not</p> <p>22 sufficient.</p> <p>23 Q. (By Ms. Quinn) Now, I'd like to turn</p> <p>24 our attention to St. Louis city juvenile court</p> <p>25 practices.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. No.</p> <p>2 Q. Is there a office procedures manual</p> <p>3 relating to juvenile cases, how somebody should be</p> <p>4 handling a case in terms of all of the tasks that</p> <p>5 need to be accomplished in a juvenile case, any kind</p> <p>6 of manual like that?</p> <p>7 A. No.</p> <p>8 Q. Is there any kind of new employees tool</p> <p>9 kit or training manual for defenders joining the</p> <p>10 city of St. Louis who might handle juvenile cases?</p> <p>11 A. You are looking at her.</p> <p>12 Q. But if you were to hire a new attorney,</p> <p>13 would they receive any kind of manual or materials</p> <p>14 that tell them how to handle juvenile cases if they</p> <p>15 had to cover a case?</p> <p>16 A. Sure. So I have done some trainings of</p> <p>17 attorneys if they're going to do a case, but we</p> <p>18 don't hand them pieces of paper, no.</p> <p>19 Q. All right. And you mentioned trainings</p> <p>20 that might take place in St. Louis city. What are</p> <p>21 those trainings?</p> <p>22 A. Sure. So we have -- I have trained</p> <p>23 some of the newer attorneys with regard to what a</p> <p>24 juvenile case is, what the processes and procedures</p> <p>25 are, case law, important Missouri case law, and so</p>

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<p style="text-align: right;">Page 69</p> <p>1 that has taken place a couple of times.</p> <p>2 Q. Yeah. So you say a couple of times.</p> <p>3 Can you tell us exactly how many times?</p> <p>4 A. So we have an attorney -- another</p> <p>5 attorney Rachel who does some juvenile stuff so I've</p> <p>6 trained her, and then I trained a group of four</p> <p>7 other attorneys. So twice.</p> <p>8 Q. All right. And when did you train</p> <p>9 those four lawyers?</p> <p>10 A. Exact date?</p> <p>11 Q. Roundabout.</p> <p>12 A. Couple months ago.</p> <p>13 Q. And how long did that training last?</p> <p>14 A. About an hour.</p> <p>15 Q. Beyond that, no other juvenile-specific</p> <p>16 trainings have been conducted in the St. Louis city</p> <p>17 office relating to juvenile practice?</p> <p>18 A. No.</p> <p>19 Q. How many lawyers do you guys have</p> <p>20 there?</p> <p>21 A. Approximately when we were fully</p> <p>22 staffed 30, but I believe we have about 27 right</p> <p>23 now.</p> <p>24 Q. And of those 27 lawyers, you've</p> <p>25 indicated you're the only one that's sort of all the</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Do you know if that's the practice</p> <p>2 around the state?</p> <p>3 A. I do not know that.</p> <p>4 Q. Do you know anything about the practice</p> <p>5 around the state?</p> <p>6 A. No.</p> <p>7 Q. St. Louis County, do you have any</p> <p>8 sense?</p> <p>9 A. I don't.</p> <p>10 MS. QUINN: All right. You have shared</p> <p>11 with us a document today that we will mark as</p> <p>12 Exhibit 28. And I think everyone has a copy of it.</p> <p>13 (WHEREIN, Exhibit 28, Memorandum of</p> <p>14 understanding, was marked for identification.)</p> <p>15 Q. (By Ms. Quinn) You have -- you have</p> <p>16 that document as well?</p> <p>17 A. I do.</p> <p>18 Q. Can I switch you?</p> <p>19 A. Sure.</p> <p>20 Q. So now it is marked Exhibit 28. Can</p> <p>21 you tell us what that document is?</p> <p>22 A. Sure. It is a memorandum of</p> <p>23 understanding between the Missouri state public</p> <p>24 defender and the 22nd Judicial Circuit of Missouri,</p> <p>25 Family Court, Juvenile Division.</p>
<p style="text-align: right;">Page 70</p> <p>1 time is in juvenile court; is that fair to say?</p> <p>2 A. It is fair to say.</p> <p>3 Q. You've mentioned Rachel. What are her</p> <p>4 duties?</p> <p>5 A. So Rachel handled -- before we stopped</p> <p>6 taking conflicts she handled the St. Louis County</p> <p>7 conflicts, as well as the St. Charles County</p> <p>8 conflicts for juvenile court, and she also has an</p> <p>9 adult caseload in the city.</p> <p>10 Q. And does she do any juvenile cases in</p> <p>11 St. Louis city's juvenile court?</p> <p>12 A. Yes, she has done some.</p> <p>13 Q. And I'm sorry if you said that and I</p> <p>14 just missed it. So then the other 25 attorneys,</p> <p>15 they are not generally assigned to handle cases in</p> <p>16 St. Louis city juvenile court; is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. But every attorney might in some way,</p> <p>19 shape, or form be involved in a juvenile case if it</p> <p>20 is certified to adult court; is that fair to say?</p> <p>21 A. No. I take all of the -- if a child is</p> <p>22 certified in the city of St. Louis, I keep the case.</p> <p>23 Q. And you stay on throughout the whole</p> <p>24 duration of that matter?</p> <p>25 A. That is correct.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. And what does this document seek to</p> <p>2 accomplish?</p> <p>3 A. So it is seeking to appoint a contract</p> <p>4 attorney in good standing to represent youth in</p> <p>5 St. Louis city juvenile court.</p> <p>6 Q. And so when you say it's seeking to</p> <p>7 appoint an attorney, is it for -- there's to be now</p> <p>8 one contract attorney in the city or is this for any</p> <p>9 number of contract counsel? I'm just a little</p> <p>10 confused.</p> <p>11 A. Sure. So currently there is one</p> <p>12 contract attorney in the city of St. Louis.</p> <p>13 Q. And who is that?</p> <p>14 A. Cindy Finney.</p> <p>15 Q. And has Cindy Finney been trained as a</p> <p>16 juvenile defender?</p> <p>17 A. Yes, she went to the juvenile training</p> <p>18 in the summer and I am a resource for her.</p> <p>19 Q. And how much is Ms. Finney paid per</p> <p>20 case?</p> <p>21 A. So there are two numbers on page two</p> <p>22 (quote as read):</p> <p>23 The contract attorney shall be paid</p> <p>24 \$500 for cases involving nonviolent</p> <p>25 offenses and \$750 for cases involving</p>

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<p>1 violent offenses, and it will not</p> <p>2 exceed \$20,000.</p> <p>3 Q. And do you know how many cases</p> <p>4 Ms. Finney currently has?</p> <p>5 A. Two.</p> <p>6 Q. So this is new?</p> <p>7 A. Yes, it is. She began the first week</p> <p>8 of October.</p> <p>9 Q. Oh, I see. I see it's dated July</p> <p>10 of '17, yes?</p> <p>11 A. Correct.</p> <p>12 Q. But it's only taken effect it sounds</p> <p>13 like this past month, this month?</p> <p>14 A. This past week, yes.</p> <p>15 Q. And so for a burglary case it sounds</p> <p>16 like unless there was the use of a weapon, she would</p> <p>17 be paid \$500 no matter what that case entailed?</p> <p>18 A. Are you referring to a burglary first,</p> <p>19 burglary second?</p> <p>20 Q. Ah, very good. We'll go burglary</p> <p>21 second.</p> <p>22 A. Okay. I believe that would be \$500.</p> <p>23 Q. All right. And so even if she had to</p> <p>24 interview ten different witnesses, yes?</p> <p>25 A. Potentially, yes.</p>	<p>1 A. As far as the amount of money, I</p> <p>2 believe it's the same.</p> <p>3 Q. Did you feel I was being argumentative?</p> <p>4 A. I --</p> <p>5 MR. MOORE: Object to the form of the</p> <p>6 question as well.</p> <p>7 MS. QUINN: All right. I don't want to</p> <p>8 argue with you, Sarah.</p> <p>9 Q. (By Ms. Quinn) Okay. So you raised</p> <p>10 this question of conflict. Let's talk -- let's talk</p> <p>11 about conflicts of interest and conflict counsel.</p> <p>12 A. Sure.</p> <p>13 Q. So you indicated earlier that in the</p> <p>14 city of St. Louis the court appoints the public</p> <p>15 defender for any child coming through kind of as a</p> <p>16 stopgap measure in -- on the front end of a case?</p> <p>17 A. That's correct.</p> <p>18 Q. And you -- do you know if that -- well,</p> <p>19 that's not the practice necessarily across the</p> <p>20 state?</p> <p>21 A. No.</p> <p>22 Q. So focusing on across the state, do you</p> <p>23 know then on the front end of a case how youth are</p> <p>24 being appointed counsel, what the practice or policy</p> <p>25 is?</p>
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<p>1 Q. No matter how many motions needed to be</p> <p>2 filed in that case?</p> <p>3 A. That's correct.</p> <p>4 Q. No matter how much mitigation evidence</p> <p>5 needed to be marshaled?</p> <p>6 A. That's correct.</p> <p>7 Q. No matter how many times she had to</p> <p>8 appear in court?</p> <p>9 A. That's correct.</p> <p>10 Q. Detention review hearings?</p> <p>11 A. That's correct.</p> <p>12 Q. Is there anything else about this</p> <p>13 document you think I should know?</p> <p>14 A. No.</p> <p>15 Q. And is there anything different about</p> <p>16 that arrangement, \$500 no matter how much is asked</p> <p>17 of the lawyer in a juvenile nonviolent matter? Is</p> <p>18 that different from what's taking place across the</p> <p>19 state for contract counsel?</p> <p>20 MR. MOORE: I'll object to the form of</p> <p>21 the question. I think it's argumentative and vague.</p> <p>22 Subject to that, you can respond.</p> <p>23 A. Do you mean contract counsel for</p> <p>24 conflict cases?</p> <p>25 Q. (By Ms. Quinn) Yes.</p>	<p>1 A. Just generally. I know that it's</p> <p>2 either they are appointed subject to 211.211, or</p> <p>3 they are telling the court when the court first</p> <p>4 inquires either at a detention hearing or at a</p> <p>5 status conference whether the child wants counsel</p> <p>6 and then allows them the opportunity to apply for</p> <p>7 public defender services.</p> <p>8 Q. So there -- there may be instances when</p> <p>9 a child is appearing before the court let's say at a</p> <p>10 detention hearing without any attorney on the case?</p> <p>11 A. That's correct.</p> <p>12 Q. In St. Charles County, for instance,</p> <p>13 are there any attorneys at the detention hearings?</p> <p>14 A. And when you mean attorneys, public</p> <p>15 defenders?</p> <p>16 Q. Public defenders.</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. And again, across the state at the --</p> <p>19 at the beginning stage of a case it would be</p> <p>20 important to discern if there was a conflict of</p> <p>21 interest, correct?</p> <p>22 A. Yes, but by the -- by the defender or</p> <p>23 who are you --</p> <p>24 Q. Just -- just as an ethical matter.</p> <p>25 A. Sure.</p>

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<p>1 Q. There are concerns about having an 2 attorney on the case who might have a conflict of 3 interest in any adult or juvenile case, yes? 4 A. Absolutely. 5 Q. Do you know how conflicts of interest 6 are discerned across the state in juvenile matters? 7 A. I do not. 8 Q. Does the public defender system have 9 any policy relating to figuring out if and when 10 there are conflicts of interest at the very 11 beginning of a case? 12 A. Yes. There -- there would be a policy. 13 Q. Do you know what that is? 14 A. Well, I mean, I think if you -- if 15 there is more than one child or more than one adult 16 charged in an offense, that would be a pretty 17 obvious conflict. That would be discerned right up 18 front. There might be more subtle conflicts, so 19 once you get into a case, you might recognize that 20 the child is saying that another individual did it 21 and then realizing that you also represent that 22 individual. 23 Q. All right. And so you've kind of 24 identified a classic conflict of interest, and that 25 is co-defendants generally should not be represented</p>	<p>1 A. Correct. 2 Q. Some are going to the contract counsel 3 who we just talked about? 4 A. Correct. 5 Q. Are there other panel or other 6 attorneys handling juvenile matters in -- in the 7 city for those who are indigent? 8 A. No. 9 Q. And who covers detention hearings in 10 the city of St. Louis? 11 A. I do. 12 Q. And do you cover all detention dockets? 13 A. Yes. 14 Q. And if a case comes in with multiple 15 respondents or juveniles charged in a single 16 offense, do you handle that detention hearing? 17 A. I do. 18 Q. And so let's say there are five 19 co-defendants charged in a fight. 20 A. Sure. 21 Q. You would stand up for all of those 22 children at the detention hearing as their lawyer? 23 A. Yes. 24 Q. And that's a conflict of interest, 25 right?</p>
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<p>1 by the same attorney -- 2 A. Yes. 3 Q. -- during the course of a case? 4 A. That's correct. 5 Q. And so what is the policy or practice 6 with regard to the MSPD system for figuring out when 7 that happens and how to protect against it? 8 MS. SHIPMA: If you know. 9 Q. (By Ms. Quinn) If you know. Sure. 10 Sure. 11 A. I guess I'm a little bit confused about 12 your question how to protect against representing 13 multiple defendants. 14 Q. That's right. 15 A. So you -- if you -- if a petition 16 charges multiple children are acting as -- acting 17 together, then protecting against it would be to 18 conflict it to other offices. 19 Q. All right. So let's talk about -- I'll 20 look at St. Louis city practices then. 21 A. Okay. 22 Q. So you've already indicated I think 23 that the St. Louis city public defender's office 24 does not represent all indigent youth in the 25 St. Louis city juvenile court, correct?</p>	<p>1 A. Yes. 2 Q. When, if at all, does a new lawyer come 3 into the case to take some of those co-respondents 4 off your hands? 5 A. Sure. So if we are able to get the 6 conflict attorneys to come down and cover the 7 detention hearings, certainly that's something that 8 is an option. However, if not -- it usually takes a 9 couple weeks to contract the case and for there to 10 be a status conference in order for all of the 11 attorneys to get together. 12 Q. So for the first few weeks of a case it 13 could be the child is without conflict-free counsel; 14 is that right? 15 A. No, that's not right. So once the 16 detention hearing is held, immediately after the 17 cases are conflicted. So I do not -- after that 18 first initial detention hearing, I am not visiting 19 all five children in the detention center. I am 20 only visiting the individual who I entered on in the 21 case. 22 Q. How long does it take from that 23 detention hearing for the new counsel to enter on 24 average to take over the matter? 25 A. I don't know.</p>

20 (Pages 77 to 80)

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<p>1 Q. And would you agree that the beginning 2 days of a case, juvenile or adult, are some of the 3 most important days on a case to investigate and -- 4 and do your job? 5 A. Yes. 6 Q. Would you also agree that detention 7 hearings, whether somebody is incarcerated or not 8 incarcerated, detained or not detained, is sometimes 9 one of the most important facets of -- of a case in 10 terms of determining outcome? 11 A. Absolutely. 12 Q. Do you feel like when you're standing 13 on a case where there's five co-respondents and 14 you're asked to represent all of them and you know 15 that you're conflicted, that you're able to do your 16 job as -- as you ought to be able to do? 17 A. Sure. I think in a perfect world that 18 there would be five different attorneys representing 19 those children, but at the moment of detention 20 hearing my goal is to get all five children 21 released. And so at that time I want to ensure that 22 those children, because that is their most important 23 question is when am I going to be released is to 24 fight for them to get released. 25 Q. Are you speaking to each one of those</p>	<p>1 investigative time are you spending on that matter? 2 A. So are you asking generally? 3 Q. Uh-huh. 4 A. Okay. So when a case is petitioned I 5 am visiting with the child, talking with the family, 6 potentially getting any mitigation information, 7 investigation. I don't have addresses or phone 8 numbers for the witnesses, so usually the 9 investigation piece is just talking to the child and 10 if the parent knows any information. That's the 11 investigation that's done pre-detention hearing. 12 Q. What about lining up alternatives to 13 detention, are you able to do that work? 14 A. Absolutely. 15 Q. Tell me more about that. 16 A. So you -- you're talking to the parents 17 or any kin that would be willing or able to take the 18 child, as well as if there is a schooling issue, 19 potentially arranging alternative schooling. 20 Q. I mean inpatient drug programming, 21 residential placement, other placements other than 22 the family to provide as an alternative at the 23 detention hearing. 24 A. Children don't normally -- that's not 25 something that they normally want, so that's -- no,</p>
Page 82	Page 84
<p>1 five about the facts of the case when you're 2 preparing for the detention hearing? 3 A. I am not. 4 Q. But the facts of the case could be 5 important to a detention determination? 6 A. They are, and I rely on the probable 7 cause document to make any very prima facie 8 arguments. 9 Q. So it's safe to say you modified what 10 would be considered an appropriate and best practice 11 in order to accommodate the limitations of the 12 system? 13 A. Yes. 14 Q. Why don't you have five attorneys 15 standing up on five co-respondent cases? 16 A. We don't have the ability to with the 17 time to get those five conflict attorneys assigned 18 because by the time -- when the petition is filed 19 and the detention hearing is three days and we don't 20 have enough time to do that. 21 Q. And -- and let's talk about that 22 pre-detention hearing period that you've mentioned, 23 three days. How much work are you doing between 24 when a case is papered or petitioned and when that 25 detention hearing takes place? How much work or</p>	<p>1 I have -- I usually do not look into that option. 2 Q. So if a child had an option of being 3 detained or going to a treatment program, it's not 4 within your practice to look into that possibility 5 of a treatment program? 6 A. Well, of course, if the -- if that's 7 what the child wanted, then yes, I would look into 8 the inpatient treatment program. 9 Q. What is -- do you know anything about 10 the practice across the state in terms of the 11 ability of lawyers handling juvenile matters to use 12 that three days to investigate, obtain, and put into 13 place alternatives to detention? 14 A. I don't. 15 Q. You talked a little bit about conflicts 16 of interest and -- and how conflict cases might be 17 reassigned. Can -- can you unpack a little bit more 18 what that process looks like and who covers what 19 county? 20 A. So I -- I'm sorry, I'm a little bit 21 confused about your question. 22 Q. Yeah, me too. So let me clarify. 23 Focusing on St. Louis city. 24 A. Sure. 25 Q. If there's a case with multiple</p>

21 (Pages 81 to 84)

<p style="text-align: right;">Page 85</p> <p>1 respondents and conflict counsel needs to be 2 assigned, what takes place? What -- what follows 3 after that determination? 4 A. Currently what takes place is we 5 determine the conflict, and then it is sent to 6 Columbia to be contracted out. 7 Q. And so Columbia gets this information 8 and then what's the realm of possibilities, to whom 9 may those cases go? 10 A. I don't know the exact individuals, but 11 they could go to any number of contract attorneys 12 for the -- the system. 13 Q. So is it safe to say there's like a 14 relationship among St. Louis city, St. Louis County, 15 and St. Charles County attorneys doing conflict 16 cases? 17 A. So that used to be the practice, but 18 that is no longer. So these are -- St. Louis County 19 and St. Charles County public defender's office is 20 no longer taking conflicts. 21 Q. Oh, okay. When did that go into 22 effect? 23 A. I don't know. Recently. 24 Q. Would -- would you say within the last 25 month?</p>	<p style="text-align: right;">Page 87</p> <p>1 this year, so it's just a new position. But I 2 was -- I split that duty with Rachel Dowd. So I 3 think it's been about a year. 4 Q. So when this change happened, is this 5 intended to improve delivery of services, like do 6 you have a sense of why this is going on? 7 A. Why I stopped doing the conflict? 8 Q. Yeah. Uh-huh. 9 A. Yes. Yes, to improve services. So I 10 could focus my time on St. Louis city youth. 11 Q. What about the attorneys out in 12 St. Charles County, are they still any of them being 13 asked to travel outside of county to cover cases? 14 A. I don't know the answer to that 15 question. 16 Q. And St. Louis County, any of those 17 folks? 18 A. I don't know. 19 Q. I want to shift a little bit and talk 20 about expert witnesses if that's okay. 21 A. Sure. 22 Q. I assume you have in your experience 23 used expert witnesses in cases, yes? 24 A. Absolutely. 25 Q. Do you have any opinions about expert</p>
<p style="text-align: right;">Page 86</p> <p>1 A. I don't know. 2 Q. Do you know if you any longer will be 3 required to travel out of county personally to -- to 4 cover cases? 5 A. No. 6 Q. No, you will not or you don't know? 7 A. I will not. 8 Q. Will other attorneys across the state 9 need to travel out of their own counties to cover 10 cases? 11 A. Potentially if those are cases that 12 they are currently entered on. 13 Q. But you don't know what the practice 14 will be going forward in terms of who's getting what 15 cases, who's covering what county? 16 A. No. 17 Q. Speaking about your practice up until 18 this recent change, is it fair to say as you 19 mentioned earlier that you were covering cases in 20 five different counties? 21 A. Yes. I -- I stopped doing that 22 approximately a year and a half ago. 23 Q. And was that because of your change in 24 role? 25 A. No. My change in role was in July of</p>	<p style="text-align: right;">Page 88</p> <p>1 opinions -- about expert witnesses in juvenile 2 matters? And let me ask do you feel like the use of 3 experts is more important or something that should 4 be relied upon more frequently in juvenile matters 5 than adult matters? 6 A. I think it depends. I think expert 7 witnesses are definitely a very important thing for 8 juvenile cases, but I -- they could be just as 9 important for an adult case. 10 Q. And so in terms of the range of experts 11 one might use in a juvenile case, can you share with 12 us a little bit who some of those folks might be? 13 A. Sure. So you might have a mental 14 health expert who is talking either about competency 15 or about learning disabilities or issues with a 16 child understanding maybe verbal language, 17 comprehension of the system. So you have those -- 18 that kind of expert. Also have an adolescent brain 19 development expert, psychologist, psychiatrist who 20 would be able to -- psychologist who would be able 21 to talk about brain development and why that is 22 important with regard to a case. You also might 23 have the range of experts that you would use in an 24 adult case, so ballistics or fingerprint DNA, those 25 kinds of experts.</p>

22 (Pages 85 to 88)

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<p>1 Q. So experts relating to the trial 2 elements or the charge elements might be one area of 3 expertise you're using? 4 A. Yes. 5 Q. And a whole other array of experts 6 relating to the youth-specific features in a 7 particular case perhaps? 8 A. Absolutely. 9 Q. And what's the process for obtaining an 10 expert witness in a juvenile matter in -- in the 11 Missouri system? 12 A. Sure. So you of course have to 13 identify the expert that you're going to use, talk 14 with them, understand how much they are going to 15 charge an hour, and then you have to do an 16 encumbrance request. So you have to identify the 17 reason why you're going to be using the expert, what 18 expert you want to use, and how much money you are 19 going to be needing for that particular expert. 20 Q. And so then what is the policy or 21 practice for then turning that information over? 22 Like to whom do you direct that request? 23 A. Sure. You direct that request to your 24 district defender and then if it reaches I believe 25 over \$500 it goes to another group, another level of</p>	<p>1 looks like. 2 A. So you're going to be talking to them 3 about, you know, pre -- using them kind of what -- 4 what strategies you have or maybe what -- what you 5 want them to be used for. Then you're going to be 6 giving them documents. 7 They're going -- they're going to have 8 to do a document review, maybe even a witness 9 review, maybe talk to family members, individuals 10 that that child has interacted with. Then you're 11 going to be talking to them before they potentially 12 write a report. 13 Do they want to write a report, do they 14 not want to write a report? Then you're going to be 15 talking to them pretrial or prehearing about what 16 kind of questions you're going to be asking them, 17 what kind of exhibits you're going to be using, what 18 kind of questions the legal officer -- officer is 19 going to be asking them, and then there is the 20 hearing and then any other posthearing issues. 21 Q. So it sounds like to locate, work with, 22 and deploy an expert well, it could take 4.6 hours 23 alone on that task? 24 A. It could. 25 Q. Is it your sense that the practices in</p>
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<p>1 management who then have to review the request. 2 Q. Are you aware of any limits on your 3 ability to access experts or use experts? 4 A. No, I am not. 5 Q. Do you know anything about the amount 6 of money that has been allocated to the Missouri 7 public defender system for expert witnesses? 8 A. No, I do not. 9 Q. You've never made something called an 10 AKE motion or AKE motion to the court directly for 11 expert expenses? 12 A. I have not. 13 Q. Do you feel like your ability to -- to 14 access experts is -- are there any -- any limits on 15 your day-to-day practice that impact your ability 16 to -- to access or use expert witnesses? 17 A. No. 18 Q. The caseloads and the like don't enter 19 into your thinking around what kind of time you 20 might spend with an expert or otherwise? 21 A. Ask -- ask that question again. 22 Q. Yeah. So it takes time to work with an 23 expert? 24 A. Absolutely. 25 Q. Tell us some -- some about what that</p>	<p>1 St. Louis city relating to the use of experts in 2 juvenile cases are different from across the state? 3 A. I can't speak for certain, but we have 4 youth experts in the city of St. Louis. 5 Q. And do you know anything about the -- 6 your colleagues across the state, how much they're 7 using experts in juvenile cases or -- 8 A. I don't. 9 Q. -- making requests? What about 10 investigators, are there policies and procedures 11 statewide with regard to the use of investigators in 12 juvenile matters? 13 A. Sure. So each office is assigned 14 investigators. If you would like an investigator to 15 do something for you, you create what's called an 16 action item. You send that to the district defender 17 or deputy district defender and then they reassign 18 that action item. 19 Q. And so what -- how long would you say 20 does it take for you from when you make a request 21 for something to be investigated for it to be 22 assigned and the action item to be acted upon? 23 A. Same day. 24 Q. And are you finding that the 25 investigators are dedicating the same amount to</p>

23 (Pages 89 to 92)

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<p>1 juvenile cases as adult cases?</p> <p>2 A. I don't know specifically, but I do</p> <p>3 know that they are divided amongst all of the</p> <p>4 attorneys, so they have a lot of action items and</p> <p>5 investigative requests to complete.</p> <p>6 Q. And do you know how many investigators</p> <p>7 there are in St. Louis city, the St. Louis city</p> <p>8 office?</p> <p>9 A. I believe four.</p> <p>10 Q. And are any specially assigned to the</p> <p>11 juvenile court?</p> <p>12 A. No.</p> <p>13 MS. QUINN: Just one moment.</p> <p>14 Q. (By Ms. Quinn) Okay. So at this time</p> <p>15 if it's okay, I'd like to talk a little bit about</p> <p>16 discovery.</p> <p>17 A. Okay.</p> <p>18 Q. Discovery in juvenile cases in</p> <p>19 particular. What are the ways in which a juvenile</p> <p>20 defender in Missouri -- or I'll -- and I keep saying</p> <p>21 juvenile defender, an attorney handling a juvenile</p> <p>22 case or a juvenile court case in Missouri, how did</p> <p>23 they seek discovery?</p> <p>24 A. Through a discovery request.</p> <p>25 Q. Okay. So you can make a request in</p>	<p>1 A. Sure. Sure.</p> <p>2 Q. Whatever color it is.</p> <p>3 A. Yes. So the practice was -- and I</p> <p>4 don't know if this is shifted over to the new</p> <p>5 building. When I was working in the old -- when I</p> <p>6 went to the old building they would say if you want</p> <p>7 the police reports go to a file room and pull out</p> <p>8 the police reports, make a copy yourself.</p> <p>9 Q. Okay. And the practice then in</p> <p>10 St. Louis County was to obtain whatever was in the</p> <p>11 file, but not to make a formal written request; is</p> <p>12 that right?</p> <p>13 A. I don't know that specific instance.</p> <p>14 We always made a written formal request.</p> <p>15 Q. And that's the city office was trained</p> <p>16 to always make a written request for discovery?</p> <p>17 A. Yes. And that was E filed.</p> <p>18 Q. And --</p> <p>19 (Court reporter interruption.)</p> <p>20 A. That was E filed.</p> <p>21 Q. (By Ms. Quinn) What about outside the</p> <p>22 city of St. Louis, do you know if the attorneys</p> <p>23 across the state handling juvenile cases are</p> <p>24 routinely making written discovery requests?</p> <p>25 A. I don't know the answer to that.</p>
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<p>1 writing?</p> <p>2 A. Yes.</p> <p>3 Q. You can make an informal request?</p> <p>4 A. Sure. Sure.</p> <p>5 Q. Just ask for materials. Are there</p> <p>6 other means of gathering information, other</p> <p>7 discovery mechanisms in juvenile cases?</p> <p>8 A. Are you asking through the legal</p> <p>9 officer or just in general?</p> <p>10 Q. In general.</p> <p>11 A. Sure. So you have your own ability to</p> <p>12 investigate a case. You can get releases signed</p> <p>13 from the youth or their family to obtain school</p> <p>14 records. You can have the investigator go take</p> <p>15 pictures, interview witnesses yourself.</p> <p>16 Q. Okay. So investigation versus</p> <p>17 discovery. Let me just talk about informal</p> <p>18 discovery.</p> <p>19 A. Okay.</p> <p>20 Q. Are you familiar with the informal</p> <p>21 discovery practice in St. Louis County?</p> <p>22 A. Are you talking about the file?</p> <p>23 Q. Yes.</p> <p>24 A. Okay.</p> <p>25 Q. The blue file.</p>	<p>1 Q. Are you familiar with Rule 25 of the</p> <p>2 Rules of Criminal Procedure in Missouri?</p> <p>3 A. I am.</p> <p>4 Q. And how that might impact or come into</p> <p>5 play in a juvenile case?</p> <p>6 A. Well, sure. There is a Supreme Court</p> <p>7 rule, I don't know the exact rule, but it says that</p> <p>8 Supreme Court Rule 25, discovery applies to all</p> <p>9 juvenile cases.</p> <p>10 Q. Okay. Are you aware of whether across</p> <p>11 the state all juvenile practitioners are aware of</p> <p>12 their ability to access discovery under both Rule 25</p> <p>13 and the rules of juvenile procedure?</p> <p>14 A. I don't know that.</p> <p>15 Q. Are you aware of whether the</p> <p>16 prosecutors or legal officers on the other side are</p> <p>17 aware that they have duties to turn over materials</p> <p>18 beyond informal discovery under the juvenile rules?</p> <p>19 A. I'm not aware of that.</p> <p>20 Q. What about Brady materials? Do you</p> <p>21 personally make requests for Brady materials in your</p> <p>22 cases in juvenile court?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know if all of the defenders</p> <p>25 across the state who handle juvenile cases are doing</p>

24 (Pages 93 to 96)

Page 97	Page 99
<p>1 so?</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know if it is the practice of</p> <p>4 legal officers or juvenile prosecutors to turn over</p> <p>5 such discovery, Brady discovery?</p> <p>6 A. I don't know.</p> <p>7 Q. How about depositions? Tell us about</p> <p>8 the use of depositions in your practice.</p> <p>9 A. Sure. So if I believe that I need to</p> <p>10 depose a witness, I will make a request again</p> <p>11 through an E-Num request, identify how much money I</p> <p>12 think it will cost to depose a witness and then that</p> <p>13 goes to -- to the district defender to approve or</p> <p>14 deny.</p> <p>15 Q. And so every time you need to take a</p> <p>16 deposition it comes out of the sort of state's</p> <p>17 budget for the public defender generally?</p> <p>18 A. I don't know what budget it comes out</p> <p>19 of.</p> <p>20 Q. But you're not making a request to the</p> <p>21 court directly?</p> <p>22 A. I am not.</p> <p>23 Q. And you said when you determine that</p> <p>24 the deposition is appropriate. The right to depose</p> <p>25 witnesses exists the same in juvenile cases as it</p>	<p>1 defender system statewide, if you know?</p> <p>2 A. I don't.</p> <p>3 Q. Are there any written policies and</p> <p>4 procedures relating to the use of social workers in</p> <p>5 juvenile cases?</p> <p>6 A. I don't know of any.</p> <p>7 Q. What about policies or procedures</p> <p>8 relating to requesting social workers to assist you</p> <p>9 with those matters?</p> <p>10 A. I don't know of any.</p> <p>11 Q. Do you have a social worker assigned in</p> <p>12 St. Louis city -- well, to the St. Louis city office</p> <p>13 at all?</p> <p>14 A. Yes.</p> <p>15 Q. How many social workers?</p> <p>16 A. One.</p> <p>17 Q. And so safe to say that person's</p> <p>18 handling all cases, not just juvenile cases?</p> <p>19 A. That is correct.</p> <p>20 Q. Do you feel like there -- there then is</p> <p>21 a limit on your ability to access social work</p> <p>22 support for your juvenile matters?</p> <p>23 A. Yes.</p> <p>24 Q. Is it -- would you say it is -- is it</p> <p>25 safe to say that every juvenile case could benefit</p>
Page 98	Page 100
<p>1 does in adult criminal cases, correct?</p> <p>2 A. Absolutely.</p> <p>3 Q. On average how -- how many depositions</p> <p>4 would you say that you take in the course of a</p> <p>5 month?</p> <p>6 A. Gosh, I -- I can't speak specifically.</p> <p>7 Not -- not more than ten.</p> <p>8 Q. Okay. And in -- would you say you're</p> <p>9 taking depositions in every case?</p> <p>10 A. No.</p> <p>11 Q. Half the cases?</p> <p>12 A. Probably not.</p> <p>13 Q. A quarter of the cases?</p> <p>14 A. Maybe.</p> <p>15 Q. And do you have a sense of the practice</p> <p>16 across the state for people handling juvenile cases?</p> <p>17 A. I don't.</p> <p>18 Q. What about in certification matters, do</p> <p>19 you take depositions precertification?</p> <p>20 A. Generally, no. But there have been</p> <p>21 occasions, yes, that I have taken depositions.</p> <p>22 Q. And so in certification hearings --</p> <p>23 well, I'll hold off on that question. Shifting from</p> <p>24 discovery and investigation to social workers, how</p> <p>25 many social workers are employed by the public</p>	<p>1 from the support of a social worker?</p> <p>2 A. Absolutely.</p> <p>3 Q. Are you able to do that?</p> <p>4 A. No.</p> <p>5 Q. And you -- again St. Louis city is the</p> <p>6 best office across the state when it comes to</p> <p>7 providing juvenile-specific defense services?</p> <p>8 A. I don't -- I don't know that -- if</p> <p>9 it -- if it is the best, but we definitely do our</p> <p>10 best to provide adequate representation, yes.</p> <p>11 Q. What about support staff, let's say</p> <p>12 paralegals, someone to review documents, or other</p> <p>13 kinds of attorney support services? What -- what</p> <p>14 kind of support do you have for that work?</p> <p>15 A. Sure. I have one legal assistant who</p> <p>16 helps with that -- that sort of work.</p> <p>17 Q. And is the legal assistant assigned to</p> <p>18 you and you alone?</p> <p>19 A. No.</p> <p>20 Q. Who does that legal assistant work for?</p> <p>21 A. She has several other attorneys that</p> <p>22 she works for and with.</p> <p>23 Q. And how many legal assistants are there</p> <p>24 for the city of St. Louis office?</p> <p>25 A. I believe there are six total.</p>

25 (Pages 97 to 100)

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<p style="text-align: right;">Page 101</p> <p>1 Q. And they handle such things as writing 2 letters, making copies, reviewing documents? 3 A. Potentially depending on what the 4 attorney requests. 5 Q. And are -- do you feel like you're 6 sufficiently supported administratively in your 7 work? 8 A. Yes. 9 Q. In terms of support staff, social 10 workers, investigators, are they provided with any 11 training specifically for juvenile matters? 12 A. No. 13 Q. How about interpreters? Does the state 14 public defender system have any interpreters on 15 staff? 16 A. No, but we can hire them. 17 Q. Tell us about what that process looks 18 like. 19 A. It's the same for a deposition or an 20 expert. You have to do an -- an action item or an 21 E-Num request -- I'm sorry, an E-Num request, and 22 you have to encumber money, talk to the interpreter 23 and then make a request to the boss. 24 Q. And the interpreter would -- you could 25 access an interpreter for in-office meetings let's</p>	<p style="text-align: right;">Page 103</p> <p>1 juvenile cases? 2 MS. QUINN: Juvenile cases, yeah. 3 A. In my practice, yes. I don't know 4 about everywhere else. 5 Q. (By Ms. Quinn) So I mentioned earlier 6 we'd come back to certification. Can you talk a 7 little bit more about certification and why it's 8 such an important process? 9 A. Certification is basically the death 10 penalty for youth. So when a child is certified, 11 they are forever going to be in the adult system and 12 they could be potentially facing very long prison 13 sentences and so it is important to focus a lot of 14 efforts on certification hearings. 15 Q. We talked earlier already about there 16 are mandatory certification matters or discretionary 17 certification matters. Do you approach either one 18 of those differently? 19 A. No. 20 Q. Do you know about practices across the 21 state in terms of if they're approached differently 22 or not? 23 A. I don't. 24 Q. Are you aware of what the burden of 25 proof is in a certification case?</p>
<p style="text-align: right;">Page 102</p> <p>1 say with family members who don't speak Spanish? 2 A. Yes. 3 Q. Or don't speak English, but speak 4 Spanish? 5 A. Yes. 6 Q. Have you worked with family who are 7 non-English speaking but used family or others to 8 serve as an informal interpreter for your work? 9 A. I have not. 10 Q. Never? 11 A. No. 12 Q. What about when sending letters or 13 materials to families that are non-English speaking, 14 how does that work? 15 A. So we have a translator, we can hire a 16 translator to translate police reports, write 17 letters, those things. 18 Q. And do they do that as a matter of 19 course? 20 A. What do you mean by -- when you say -- 21 Q. In every case where there's an issue of 22 a non-English speaker, does every case have a 23 translator and interpreter to translate every 24 document for -- for the family? 25 MS. SHIPMA: You're talking about</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Oh, gosh. That's a really good 2 question. I would have to review the statute. I 3 believe -- I mean, it's up to the judge, and I 4 don't -- but I don't know the -- I can't recall at 5 this time the burden of proof. 6 Q. And have you not ever challenged the 7 fact that there is no burden of proof listed in the 8 statute for certification cases? 9 A. I have not. 10 Q. What about weight of the evidence with 11 regard to elements under the statute? 12 A. So -- so I have not challenged that, 13 but I recognize that the court is able to give what 14 weight it will to any of the doctors. 15 Q. What about proof presented by the 16 defense in a certification case? In your practice, 17 what kind of proof do you try to or tend to present 18 in a certification case? 19 A. So with regard to the first three 20 factors, challenges to the actual incident itself. 21 So I've put on witnesses, I've put on police 22 officers, potential witnesses for the case, 23 introduced documents with regard to challenging 24 whether or not there's probable cause for the case 25 to proceed.</p>

<p style="text-align: right;">Page 105</p> <p>1 With regard to the next seven factors</p> <p>2 I've put on statisticians through the court to talk</p> <p>3 about the racial disparity on certification. I've</p> <p>4 put on family members to talk about the</p> <p>5 sophistication and maturity of the child.</p> <p>6 I've put on case managers who have --</p> <p>7 and residential placement managers who've talked</p> <p>8 about the services that a child has received. I</p> <p>9 have also put on care and protection individuals, so</p> <p>10 case managers, I've put on guardian ad litem, and</p> <p>11 then expert witnesses as well, psychologists and the</p> <p>12 like who talk about a child's history.</p> <p>13 Q. And are you aware of how that practice</p> <p>14 compares with the practice of your colleagues across</p> <p>15 the state who might be handling juvenile</p> <p>16 certification cases?</p> <p>17 A. I do not.</p> <p>18 Q. What about the proof that is presented</p> <p>19 on the other side, proof from the juvenile officer?</p> <p>20 What is your experience in terms of what they</p> <p>21 present?</p> <p>22 A. They traditionally and typically</p> <p>23 present the testimony of the deputy juvenile</p> <p>24 officer.</p> <p>25 Q. Do they usually present any other</p>	<p style="text-align: right;">Page 107</p> <p>1 certification hearing?</p> <p>2 A. I do not know.</p> <p>3 Q. How long if you know do most</p> <p>4 certification hearings last in the State of</p> <p>5 Missouri?</p> <p>6 A. I don't know.</p> <p>7 Q. Are you aware of the standing practice</p> <p>8 in St. Louis County of certification hearings taking</p> <p>9 one hour or less?</p> <p>10 A. No, I'm not aware of that.</p> <p>11 Q. Have you ever had a certification</p> <p>12 hearing in St. Louis County that took longer than an</p> <p>13 hour?</p> <p>14 A. Yes.</p> <p>15 MS. SHIPMA: Sarah, your voice is</p> <p>16 getting softer.</p> <p>17 THE WITNESS: Yes. Sorry.</p> <p>18 Q. (By Ms. Quinn) Are you aware beyond</p> <p>19 St. Louis city of what happens with a child's case</p> <p>20 upon certification? If it's a -- if it's a public</p> <p>21 defender case, what happens with that kiddo?</p> <p>22 A. Beyond St. Louis city?</p> <p>23 Q. Yeah.</p> <p>24 A. So I can just talk generally about what</p> <p>25 happens. So if a child is certified, then the</p>
<p style="text-align: right;">Page 106</p> <p>1 testimony?</p> <p>2 A. Not usually.</p> <p>3 Q. And that's based in your experience</p> <p>4 across the five different counties you practiced in,</p> <p>5 yes?</p> <p>6 A. And I guess there -- there have been</p> <p>7 victims who have testified regarding the impact of</p> <p>8 the -- the crime.</p> <p>9 Q. Okay. But in terms of the elements</p> <p>10 under the statute for certification, it's almost</p> <p>11 always only the juvenile officer?</p> <p>12 A. Yes.</p> <p>13 Q. Have you ever challenged that practice?</p> <p>14 A. Tell me what you mean by that.</p> <p>15 Q. Based on the lack of expertise or the</p> <p>16 lack of ability of that person to be a competent</p> <p>17 witness in that respect.</p> <p>18 A. Sure. Through cross-examination, but</p> <p>19 not through formal motion.</p> <p>20 Q. Have you ever deposed that deputy</p> <p>21 juvenile officer before they testified at a</p> <p>22 certification hearing?</p> <p>23 A. I have not.</p> <p>24 Q. Do you know if your colleagues ever</p> <p>25 depose deputy juvenile officers before a</p>	<p style="text-align: right;">Page 108</p> <p>1 prosecutor has to decide whether or not they're</p> <p>2 going to issue the case. If they decide to issue</p> <p>3 the case, they pick the child up from the detention</p> <p>4 center and transport them to the adult jail. And</p> <p>5 then the child either retains that counsel if they</p> <p>6 are providing that representation, if the public</p> <p>7 defender is providing the representation or they</p> <p>8 have to apply for services.</p> <p>9 Q. Are you aware of the practice</p> <p>10 generally -- so in -- in what percentage of cases</p> <p>11 does the initial assigned defender stay on the case</p> <p>12 postcertification?</p> <p>13 A. I do not know.</p> <p>14 Q. Are you aware of cases where children</p> <p>15 between the moment of certification and when they</p> <p>16 next appear in front of a judge in adult court are</p> <p>17 essentially without counsel?</p> <p>18 A. Am I aware of specific instances? No,</p> <p>19 I'm not.</p> <p>20 Q. Based on your understanding of the</p> <p>21 practices across the state, is it your understanding</p> <p>22 that much work is happening between certification</p> <p>23 and when the case is next presented to a judge?</p> <p>24 A. Work done by the defender?</p> <p>25 Q. By the defender.</p>

27 (Pages 105 to 108)

<p style="text-align: right;">Page 109</p> <p>1 A. I can't speak to that. I don't know.</p> <p>2 Q. That too would be an important window</p> <p>3 for working on a case, yes?</p> <p>4 A. Absolutely.</p> <p>5 Q. What about motions to transfer a case</p> <p>6 from adult court back to juvenile court? Are you</p> <p>7 familiar with that practice?</p> <p>8 A. I am.</p> <p>9 Q. And it's -- do you have any -- have you</p> <p>10 done it yourself?</p> <p>11 A. So before the collateral representation</p> <p>12 from certification to adult court we had an</p> <p>13 attorney, Bill Marsh, who did those motions. So</p> <p>14 before we did the continuity of representation if a</p> <p>15 child was certified he would represent all the</p> <p>16 17-year-olds. So yes, he has done those motions and</p> <p>17 I am currently working on a motion right now.</p> <p>18 Q. And this is in St. Louis city?</p> <p>19 A. That I am working on a motion, no, it's</p> <p>20 in St. Louis County.</p> <p>21 Q. Okay. But -- so across the state, are</p> <p>22 you aware of how many times when a kid hits adult</p> <p>23 court a motion is filed to transfer them back to</p> <p>24 juvenile court?</p> <p>25 A. I'm not aware.</p>	<p style="text-align: right;">Page 111</p> <p>1 prosecution might be?</p> <p>2 A. Of an adult prosecution?</p> <p>3 Q. Yes.</p> <p>4 A. I don't know.</p> <p>5 Q. Have you ever seen any?</p> <p>6 A. I've not seen a manual, no.</p> <p>7 Q. What about for juvenile cases?</p> <p>8 A. Sure. So we've been collaborating with</p> <p>9 the National Juvenile Defender Center to create a</p> <p>10 pamphlet for collateral consequences. So there have</p> <p>11 been drafts made, but there is no -- currently no</p> <p>12 pamphlet that is available to -- for distribution.</p> <p>13 Q. And there has -- it hasn't been the</p> <p>14 practice in the past for juvenile defenders to be</p> <p>15 referring to such material then?</p> <p>16 A. Correct.</p> <p>17 Q. What about immigration consequences in</p> <p>18 particular since you've raised that? Do you have in</p> <p>19 the MSPD system an immigration consequences expert?</p> <p>20 A. Sure. So I know there are attorneys</p> <p>21 who have practiced immigration law, so yes, we have</p> <p>22 the ability to reach out to them. I don't know if</p> <p>23 they would be deemed as an immigration law expert.</p> <p>24 But also we reach out to several different</p> <p>25 organizations in the city of St. Louis with regard</p>
<p style="text-align: right;">Page 110</p> <p>1 Q. Is -- is that a -- are you -- have you</p> <p>2 heard of that practice happening frequently?</p> <p>3 A. I've heard of it happening, but I don't</p> <p>4 know how often.</p> <p>5 Q. Let's talk a little bit about</p> <p>6 collateral consequences.</p> <p>7 A. Sure.</p> <p>8 Q. Can you tell us what collateral</p> <p>9 consequences of a prosecution, what that term means</p> <p>10 to you?</p> <p>11 A. Sure. So collateral consequences would</p> <p>12 mean consequences of a child being adjudicated of an</p> <p>13 offense. They could include schooling, employment,</p> <p>14 college, immigration, military service. They impact</p> <p>15 all aspects of a child's life.</p> <p>16 Q. And are you familiar with any case law</p> <p>17 relating to collateral consequences, United States</p> <p>18 Supreme Court or otherwise, about the duty of a</p> <p>19 defender and collateral consequences?</p> <p>20 A. Yes, and as you're asking me this the</p> <p>21 motion -- the -- the case escapes me, but it is a</p> <p>22 case about immigration consequences.</p> <p>23 Q. And are there statewide manuals or</p> <p>24 materials that lay out for defenders in MSPD's</p> <p>25 system what all the collateral consequences of a</p>	<p style="text-align: right;">Page 112</p> <p>1 to immigration questions.</p> <p>2 Q. Okay. So just focusing on kind of</p> <p>3 statewide resources and practices, what is the</p> <p>4 practice, policy or procedure for finding out about</p> <p>5 immigration consequences or accessing an immigration</p> <p>6 expert?</p> <p>7 A. You're -- you're asking what MSPD's</p> <p>8 policy is?</p> <p>9 Q. Yeah, uh-huh.</p> <p>10 A. I don't know what the policy is for</p> <p>11 accessing. I can only speak to what -- what I --</p> <p>12 what we do --</p> <p>13 Q. Uh-huh.</p> <p>14 A. -- in the city.</p> <p>15 Q. Before we get to the city, these folks</p> <p>16 you'd mentioned, you mentioned maybe there's some</p> <p>17 people who happen to be public defenders who also</p> <p>18 happen to in their past life do immigration work.</p> <p>19 A. Sure.</p> <p>20 Q. Do they have -- you know, are they</p> <p>21 designated the go-to for immigration questions?</p> <p>22 A. Not that I'm aware.</p> <p>23 Q. Do you know when they last practiced</p> <p>24 immigration law?</p> <p>25 A. I believe within a year is the -- is</p>

28 (Pages 109 to 112)

<p style="text-align: right;">Page 113</p> <p>1 the person that I'm thinking of.</p> <p>2 Q. And where is that person?</p> <p>3 A. She is in the -- now in the St. Charles</p> <p>4 office.</p> <p>5 Q. And so like did an e-mail go out that</p> <p>6 said, hey, we now have an immigration expert in</p> <p>7 St. Charles, everyone should access this person if</p> <p>8 they have immigration questions?</p> <p>9 A. No.</p> <p>10 Q. And you mentioned sort of differently</p> <p>11 or separately in St. Louis city you guys have some</p> <p>12 practices, yes?</p> <p>13 A. Yes.</p> <p>14 Q. And you mentioned some maybe local</p> <p>15 immigration attorneys who currently practice</p> <p>16 immigration law that you access?</p> <p>17 A. Yes.</p> <p>18 Q. What does that look like? What do you</p> <p>19 do?</p> <p>20 A. So we call the -- the offices, so</p> <p>21 it's -- there is the St. Louis Catholic legal</p> <p>22 society, I think it's part of SLU, and then there's</p> <p>23 also the MICA Project. So we reach out to the</p> <p>24 attorneys, ask them for advice on immigration</p> <p>25 issues.</p>	<p style="text-align: right;">Page 115</p> <p>1 intent or could not form this type of intent.</p> <p>2 Motions to dismiss based on the conflicted system.</p> <p>3 Q. Okay. And do you have a sense</p> <p>4 statewide what the motion practice is like in</p> <p>5 juvenile court cases?</p> <p>6 A. No, I do not.</p> <p>7 Q. In the conversations you're having with</p> <p>8 fellow attorneys who are handling juvenile cases, is</p> <p>9 it your sense that they're all filing motions that</p> <p>10 are necessary in a case?</p> <p>11 A. I think they want to file all motions</p> <p>12 that are necessary in a case and that is where I</p> <p>13 come in to help them talk that through.</p> <p>14 Q. And so are you able to do the work for</p> <p>15 them to -- to file those motions?</p> <p>16 A. What do you mean by that?</p> <p>17 Q. Well, it sounded like there's an</p> <p>18 impediment to their ability to do it, and so I'm</p> <p>19 just trying to understand what that means.</p> <p>20 A. So -- so attorneys will reach out and</p> <p>21 ask, so for example, if it's a sex case, what types</p> <p>22 of motions you would file. So I help with case law,</p> <p>23 provide relevant case law and talk through potential</p> <p>24 motions that could be filed. I'm not writing the</p> <p>25 motions for them.</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. Are you aware in the rural counties</p> <p>2 what the practices are along those lines?</p> <p>3 A. I do not know.</p> <p>4 MS. QUINN: You want to take a break or</p> <p>5 should I keep going?</p> <p>6 MS. SHIPMA: How much more have you</p> <p>7 got?</p> <p>8 MS. QUINN: I'm on 11 of 14.</p> <p>9 MS. SHIPMA: Keep going.</p> <p>10 Q. (By Ms. Quinn) All right. Let's talk</p> <p>11 about motions practice a little bit if that's okay.</p> <p>12 A. Uh-huh.</p> <p>13 Q. So just like in adult criminal cases,</p> <p>14 juvenile defendants or respondents can file pretrial</p> <p>15 motions, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Can you share with us just a range of</p> <p>18 the kinds of motions that -- that could get filed in</p> <p>19 a juvenile prosecution case by the defense lawyer?</p> <p>20 A. Sure. Motions to suppress statements,</p> <p>21 motions to suppress evidence, motions to dismiss,</p> <p>22 motions to exclude witnesses, motions to exclude</p> <p>23 hearsay. Could be motions to dismiss based on</p> <p>24 specific adolescent -- so there's not specific --</p> <p>25 you know, adolescents could not have this type of</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Okay. And is there any let's say</p> <p>2 resource, you know, a motion section or a group of</p> <p>3 law students who busy public defenders could access</p> <p>4 to write motions they would not otherwise have the</p> <p>5 time to write?</p> <p>6 A. I think it depends on your jurisdiction</p> <p>7 if you have a law school that's available and that</p> <p>8 there are interns that are working through the</p> <p>9 public defender system.</p> <p>10 Q. But it's not the case in every county?</p> <p>11 A. I don't believe so, no.</p> <p>12 Q. How about in St. Louis city cases, are</p> <p>13 you -- are you filing all the motions that -- that</p> <p>14 we just talked about?</p> <p>15 A. I -- I am trying to, yes.</p> <p>16 Q. And is there any impediment to your</p> <p>17 ability to do so in every case?</p> <p>18 A. I think time is an impediment.</p> <p>19 Q. Let's focus specifically on a motion I</p> <p>20 don't think you mentioned, and that is a detention</p> <p>21 review motion. Are you familiar with what that is?</p> <p>22 A. I am.</p> <p>23 Q. Can you explain what that means?</p> <p>24 A. Sure. So every 30 days when a child is</p> <p>25 detained the judge or commissioner has to review</p>

<p style="text-align: right;">Page 117</p> <p>1 whether or not there are changed circumstances and 2 whether the child should remain in detention. 3 Q. Okay. So that's by statute what the 4 court does automatically, correct? 5 A. Correct. 6 Q. In St. Louis city does everyone kind of 7 get around the table in 30 days to review that 8 situation? 9 A. No. 10 Q. Isn't it the case that in St. Louis 11 city as well as around the state the judges are 12 making those reviews behind closed doors and then 13 issuing an order about whether the child remains 14 detained or gets released? 15 A. Yes. 16 Q. And so in terms of motions, a defense 17 motion to review detention status, that is different 18 from that statutory process we just talked about? 19 A. Correct. 20 Q. So what is a detention review motion 21 that might get filed by a -- by a juvenile defender? 22 A. So if the defender believes that there 23 are a change of circumstances pursuant to Supreme 24 Court Rule 127, then they could file that motion and 25 have the detention reviewed and ask for the release</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. Fewer than 50? 2 A. I would say probably between 50 and a 3 hundred. 4 Q. Okay. What about your colleagues 5 across the state, do you know if they are filing 6 detention review motions? 7 A. I don't know the answer to that. 8 Q. Do you know if they've been trained to 9 file detention review motions? 10 A. I don't know the answer to that. 11 Q. What about a motions bank or resource 12 that folks can go to beyond calling you for motions, 13 what's that look like? 14 A. I know that we have a motions bank in 15 our system, and so if there are juvenile-specific 16 motions they could access them there. 17 Q. How robust is that juvenile motions 18 part of your motions bank would you say? 19 A. I don't know. 20 Q. Have you not been to it? 21 A. Not recently, no. 22 Q. Okay. You've talked about your new 23 role as kind of statewide juvenile defense and I 24 want to call it not coordinator, but -- 25 A. The director of juvenile defense and</p>
<p style="text-align: right;">Page 118</p> <p>1 of the child. 2 Q. Is there anything else that might 3 enable a juvenile defender to seek a review of the 4 detention status other than change in circumstances? 5 A. Not that's coming to my mind. 6 Q. In terms of filing detention review 7 motions, is that a regular part of your practice? 8 A. Not a regular part of my practice I 9 would say, no. 10 Q. How many detention review motions do 11 you file in a month? 12 A. Well, there are not very many children 13 detained right now, so I would say right now I 14 haven't filed any in the past couple of months due 15 to the low numbers in detention. 16 Q. Through the course of your career since 17 2009 how many detention review motions do you think 18 you've filed? 19 A. I have no idea. 20 Q. More than ten? 21 A. Probably. 22 Q. More than 20? 23 A. Probably. 24 Q. More than a hundred? 25 A. No, probably not.</p>	<p style="text-align: right;">Page 120</p> <p>1 policy. 2 Q. And as part of that job or new role, do 3 you observe -- as part of your role to go and 4 observe people in court? 5 A. So I think that will be eventually. 6 I'm handling my own cases, so I have been working on 7 all my own cases. So I have not observed anyone in 8 court statewide. 9 Q. And to date there's been no practice of 10 anyone with specific juvenile expertise going into 11 the courts to make sure attorneys are doing what 12 they ought to do with regard to juvenile cases? 13 A. I can't speak to that, no. 14 Q. And you mentioned that folks might call 15 you up and ask questions as they're working on a 16 motion. Do you review draft motions? 17 A. I have for attorneys that I've worked 18 with in my office, but I've not for other attorneys. 19 Q. Before you had this position, did 20 anyone hold this position? 21 A. No. 22 Q. What was Karen Craft's role as a -- a 23 kind of juvenile go-to person in the State of 24 Missouri? 25 A. Sure. So Karen had several roles,</p>

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<p style="text-align: right;">Page 121</p> <p>1 including dealing with capital offenses. I believe 2 she was kind of a go-to for that as well, but she -- 3 she went to the legislature, she answered juvenile 4 questions, and she served as someone who was well 5 versed in juvenile law. So I would say yes, she -- 6 she was somebody who like me knew juvenile law. 7 Q. Did Karen ever handle a juvenile case 8 in her practice? 9 A. I think she did. I don't think in 10 later years she did, but yes, I believe she handled 11 juvenile cases. 12 Q. So even though she wasn't practicing in 13 juvenile court, she was the go-to for people to seek 14 advice about juvenile matters for the last several 15 years? 16 A. She and Mary Fox and myself also. 17 Q. But statewide Mary Fox is not 18 designated? 19 A. No. 20 Q. Were you aware of Karen Craft reviewing 21 motions that were filed by anyone handling juvenile 22 cases? 23 A. I don't know the answer to that. 24 Q. Are you aware of Karen Craft doing any 25 trainings for juvenile practice around the state?</p>	<p style="text-align: right;">Page 123</p> <p>1 the public defender system. I did not interact with 2 any of the attorneys or go watch any hearings while 3 there were youth advocacy units. 4 Q. I'm sorry. So I misunderstood. I 5 thought you were intern with the specialized units. 6 A. Nope. I interned with -- 7 (Court reporter interruption.) 8 Q. (By Ms. Quinn) The specialized units. 9 So is it safe to say the specialized juvenile 10 defense units have been dismantled? 11 A. Yes. 12 Q. And that all of the cases that 13 previously were handled by specially trained 14 juvenile defenders have been dumped into the regular 15 system? 16 A. Yes. 17 Q. I want to turn to the question of 18 caseloads and turning away cases. 19 A. Okay. 20 Q. Are you aware of any policies or 21 procedures that allow for Missouri public defenders 22 who are handling any kind of matter to turn away a 23 case if their -- if their caseload has become 24 excessive? 25 A. You said policies and procedures?</p>
<p style="text-align: right;">Page 122</p> <p>1 A. So she was involved in the trainings 2 that I referred to that have happened in the past 3 couple of years. She has since retired, so I 4 don't -- I don't remember what year she retired, but 5 she has not -- was not present for this year's 6 training. 7 Q. And is it safe to say if you know that 8 Karen Craft was put in that position perhaps in 9 reaction to some of the findings of the -- of NJDC 10 and the Department of Justice? 11 A. I don't know the answer to that. 12 Q. Was there anyone in Karen Craft's role 13 before Karen Craft? 14 A. I don't know. 15 Q. Since you've been with the public 16 defender system, have there ever been specialized 17 juvenile defender offices? 18 A. So I was an intern in 2007 and 2008 and 19 I know that the juvenile youth advocacy units were 20 present then, but I -- I -- since I've been 21 practicing as an attorney, no. 22 Q. Can you tell us more about what that 23 looked like then in comparison to now? 24 A. I -- actually, I don't know what it 25 looked like. I just know that they were present in</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. Yeah, what is the practice? 2 A. There is not a practice. I mean, there 3 is a statute that the legislature created, but at 4 this time I do not believe that there is a 5 practice -- 6 Q. Are you -- 7 A. -- statewide. 8 Q. I apologize. I was stepping on your 9 words there. 10 Are you aware of any recent 11 correspondences or communications from Michael 12 Barrett around turning away cases or indicating that 13 your caseload has become too high to accept new 14 matters? 15 A. Yes. 16 Q. Can you tell us about what's going on 17 and what your understanding is of the current 18 situation? 19 A. Sure. So an attorney, Mr. Hinkebein 20 was disciplined by the office of chief disciplinary 21 counsel for failing to do his -- his due diligence 22 in representing clients, and so some circuits, 23 including Columbia have -- or not circuits, some 24 district defenders have turned away -- determined 25 and their attorneys have determined that they're</p>

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<p style="text-align: right;">Page 125</p> <p>1 going to turn away cases due to their ethical 2 obligations.</p> <p>3 Q. And are you familiar as you sit here 4 with, you know, which districts or which offices are 5 turning away cases now or seeking to turn away 6 cases?</p> <p>7 A. The only one I know of specifically is 8 Columbia.</p> <p>9 Q. What about juvenile matters, are you 10 hearing anything about attorneys turning away 11 juvenile appointments or juvenile respondents who 12 are seeking assistance?</p> <p>13 A. I -- I am not aware.</p> <p>14 Q. Is there any special follow policy or 15 special practice for those kinds of cases to -- to 16 turn them away or seek to close the spigot if you 17 will on those?</p> <p>18 A. Not that I know of.</p> <p>19 Q. Have you ever turned away a case 20 because your caseload was too high, a case for a 21 juvenile?</p> <p>22 A. No, I have not.</p> <p>23 Q. Have you handled cases of juveniles 24 while you feel like your caseload was too high for 25 you really to -- to manage effectively?</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. Okay. I'd like to take a look at 2 another document. I think this is the last one. 3 Exhibit 29.</p> <p>4 (WHEREIN, Exhibit 29, Exhibit 1 of 5 complaint, was marked for identification.)</p> <p>6 Q. (By Ms. Quinn) Okay. And I've marked 7 it as Exhibit 29 for purposes of our deposition, but 8 as you see, it has a cover indicating Exhibit 1 9 because it is Exhibit 1 in our complaint. Looking 10 at this document, do you recognize it?</p> <p>11 A. I -- I don't recognize -- I mean, I 12 know what it is, but I've -- I've not looked through 13 it.</p> <p>14 Q. And so in terms of knowing what it is, 15 can you tell us what your understanding is of this 16 document?</p> <p>17 A. It is the two -- 2016 fiscal year 18 annual report.</p> <p>19 Q. And it's fair to say that the public 20 defender system each year produces a report kind of 21 providing an outline of the services it's provided?</p> <p>22 A. Yes.</p> <p>23 Q. And taking a look together at page 23 24 of this report, there is a chart. Are you familiar 25 with this chart?</p>
<p style="text-align: right;">Page 126</p> <p>1 A. Yes.</p> <p>2 Q. Are you familiar with this new pro bono 3 practice group in the city of St. Louis with private 4 lawyers and private firms handling cases?</p> <p>5 A. I am.</p> <p>6 Q. What do you know about that?</p> <p>7 A. It's called the Missouri Coalition for 8 the Right to Counsel, and it is private firms who 9 have offered to take cases on pro bono.</p> <p>10 Q. Are you aware of whether they are 11 handling any juvenile court cases?</p> <p>12 A. They are not.</p> <p>13 Q. So they're doing nothing to alleviate 14 the pressures on those who are handling juvenile 15 cases or to -- I'll just say to handle juvenile 16 cases?</p> <p>17 A. They are not handling cases in the city 18 of St. Louis, no.</p> <p>19 Q. Okay. We talked earlier about both the 20 Spangenberg report and the NJDC report indicating 21 that there are high percentages of youth in the 22 State of Missouri who are in need of juvenile 23 defense representation, but are not being provided 24 with counsel; is that fair to say?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 128</p> <p>1 A. I'm not.</p> <p>2 Q. You see here that there's case type 3 50-N, 50-S, 50-V. Do you know what those numbers 4 and letters mean?</p> <p>5 A. So those are the case types for 6 juvenile nonviolent, juvenile status and juvenile 7 violent offenses.</p> <p>8 Q. And so is that your own system, kind of 9 you designate things with these numbers and letters 10 internally to make clear what kind of case or matter 11 it is?</p> <p>12 A. Yes.</p> <p>13 Q. And looking together at these -- these 14 numbers, it appears that in 2016 approximately 1,600 15 juvenile cases were opened by the public defender 16 system. Is that your understanding of how we should 17 read this report?</p> <p>18 A. Without doing the math, I can tell you 19 that there were 912 nonviolent, 81 status, and 625 20 violent.</p> <p>21 Q. Okay. And so that would be like the 22 world of juvenile cases that the MSPD system handled 23 in this year?</p> <p>24 A. Yes.</p> <p>25 Q. Are you aware of how many actual</p>

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<p>1 juvenile cases, juvenile court delinquency cases</p> <p>2 there were in the State of Missouri in 2016?</p> <p>3 A. I'm not aware.</p> <p>4 Q. Do you have any sense of like what</p> <p>5 percentage this is of the world of juvenile cases?</p> <p>6 A. I'm not.</p> <p>7 Q. And so this -- I'll -- I'll take a</p> <p>8 guess, around about 1,600 cases handled by the</p> <p>9 Missouri public defender system for juveniles, are</p> <p>10 you aware of how frequently in those 1,600 matters</p> <p>11 defenders might handle pre-petition Miranda</p> <p>12 engagements?</p> <p>13 A. I don't know.</p> <p>14 Q. In your own practice, how frequently</p> <p>15 have you handled a child being Mirandized</p> <p>16 pre-petition?</p> <p>17 A. Only a handful of times.</p> <p>18 Q. So fewer than five times since 2009</p> <p>19 you've been able to assist a child to --</p> <p>20 A. Probably. Sorry.</p> <p>21 Q. My fault. I got these long questions.</p> <p>22 Fewer than five times since 2009 you worked with a</p> <p>23 kid who's being Mirandized?</p> <p>24 A. Probably.</p> <p>25 Q. What about lineups? How many lineups</p>	<p>1 different than a child being interrogated about the</p> <p>2 action. So diversion would be the process in which</p> <p>3 a petition is not filed, and then services are</p> <p>4 provided for the kid. If they are trying to do an</p> <p>5 informal adjustment conference that's when they</p> <p>6 could potentially question the kid about what</p> <p>7 happened.</p> <p>8 Q. Okay. And I think you had raised</p> <p>9 earlier on this dilemma or problem of -- of children</p> <p>10 going to diversion conferences or informal</p> <p>11 adjustment conferences without counsel and then</p> <p>12 being asked about the facts of the case.</p> <p>13 A. Yes.</p> <p>14 Q. And that was a -- a problematic</p> <p>15 practice flagged by the Department of Justice, yes?</p> <p>16 A. Yes.</p> <p>17 Q. And now that practice has changed it</p> <p>18 seems to be in St. Louis County with the special</p> <p>19 attorney present to assist there?</p> <p>20 A. As well as in the DJO guidelines.</p> <p>21 Q. Okay.</p> <p>22 A. And standards, yes.</p> <p>23 Q. Has -- do you think across the state</p> <p>24 that the -- the juvenile -- the defenders handling</p> <p>25 juvenile cases, are they showing up in every county</p>
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<p>1 have you personally covered for juveniles who are --</p> <p>2 have been taken into custody by police?</p> <p>3 A. The practice in the city of St. Louis</p> <p>4 is they call me whenever there is going to be a</p> <p>5 lineup. So probably around 25 I would say lineups</p> <p>6 I've gone to. Certainly less than 50.</p> <p>7 Q. And this is since 2009?</p> <p>8 A. Yes.</p> <p>9 Q. And what is your understanding of that</p> <p>10 practice statewide for juveniles?</p> <p>11 A. I don't know the answer to that.</p> <p>12 Q. And is it your sense based on</p> <p>13 everything you know that it is probably far less</p> <p>14 across the state in terms of juvenile defenders</p> <p>15 showing up to be with you during lineups?</p> <p>16 A. Yes.</p> <p>17 MR. MOORE: Also object to the</p> <p>18 foundation, but the answer is in the record, so go</p> <p>19 ahead.</p> <p>20 Q. (By Ms. Quinn) You talked earlier</p> <p>21 about diversion being a process where a youth might</p> <p>22 be essentially interrogated by government agents,</p> <p>23 the court staff about an allegation; is that fair to</p> <p>24 say?</p> <p>25 A. Well, I mean diversion is something</p>	<p>1 to assist children in -- in diversionary meetings?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. What about violation of probation</p> <p>4 proceedings? In the 1,600 matters that we just</p> <p>5 talked about for 2016, do you have any sense of what</p> <p>6 number might have involved violation of probation</p> <p>7 hearings?</p> <p>8 A. I -- I don't know the exact number, but</p> <p>9 based on looking at the table, I would assume that</p> <p>10 those would be the juvenile status because they</p> <p>11 would be -- you know, I don't -- yeah, I -- sorry.</p> <p>12 Q. Yeah. I may be asking you something</p> <p>13 that you -- you -- don't have the data for --</p> <p>14 A. Yeah.</p> <p>15 Q. -- but just speaking generally, in a</p> <p>16 juvenile case just as in an adult case, a young</p> <p>17 person can face a motion seeking to violate their</p> <p>18 probation?</p> <p>19 A. Yes.</p> <p>20 Q. Separately, differently, there's</p> <p>21 something called a probation review hearing, yes?</p> <p>22 A. Correct.</p> <p>23 Q. As a matter of course, young people</p> <p>24 come back to court to see a judge relating to their</p> <p>25 compliance with probation?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. That is correct.</p> <p>2 Q. When there are violation of probation</p> <p>3 hearings, how often are you personally able to</p> <p>4 handle those cases in St. Louis city?</p> <p>5 A. I handle all of the motions to modify.</p> <p>6 Q. And what about status, probation status</p> <p>7 hearings in St. Louis city?</p> <p>8 A. Do you mean review hearings?</p> <p>9 Q. Review hearings, right.</p> <p>10 A. I do not go to the review hearings.</p> <p>11 Q. So children are appearing in St. Louis</p> <p>12 city before a judge to talk about how they're doing</p> <p>13 on probation sometimes without an attorney with</p> <p>14 them?</p> <p>15 A. Yes.</p> <p>16 Q. What about across the state? Do you</p> <p>17 have an understanding of the practice for juveniles</p> <p>18 in other districts with such matters?</p> <p>19 A. Sure. I know that in St. Louis County</p> <p>20 attorneys are attending the review hearings, but I</p> <p>21 don't know anywhere else.</p> <p>22 Q. What about drug court? Are you</p> <p>23 familiar with something called drug court?</p> <p>24 A. I am.</p> <p>25 Q. What is that?</p>	<p style="text-align: right;">Page 135</p> <p>1 St. Louis city drug court?</p> <p>2 A. Not -- not as frequently as I would</p> <p>3 like to. So I appear -- I used to appear every</p> <p>4 Friday, that's when the drug court docket is, but I</p> <p>5 haven't been able to go recently.</p> <p>6 Q. And what about across the state, do you</p> <p>7 have any sense of whether defenders are covering</p> <p>8 drug court appearances for youth?</p> <p>9 A. I don't know if there are other drug</p> <p>10 courts for juveniles across the state.</p> <p>11 Q. Okay. And what about other</p> <p>12 postdispositional advocacy on behalf of youth? For</p> <p>13 instance, youth who are in the division of youth</p> <p>14 services or who want to aside from direct appeals</p> <p>15 challenge the practice of their attorney, challenge</p> <p>16 the -- something relating to the -- the</p> <p>17 representation they received. What does that look</p> <p>18 like across the state?</p> <p>19 A. I don't know.</p> <p>20 Q. Have you provided any representation to</p> <p>21 any children who have been placed in DYS?</p> <p>22 A. No, I have not.</p> <p>23 Q. And -- and what about appeals from</p> <p>24 juvenile cases? Is it safe to say that juveniles</p> <p>25 like adults have the right to appeal a juvenile</p>
<p style="text-align: right;">Page 134</p> <p>1 A. So there are -- is an adult drug court</p> <p>2 and there's also a juvenile drug court. A -- in</p> <p>3 juvenile drug court a child would have to admit to</p> <p>4 the allegations before going to drug court. If they</p> <p>5 successfully complete the term then their petition</p> <p>6 and the allegations are dismissed and the -- and the</p> <p>7 child is free to go.</p> <p>8 Q. And that process moving from that</p> <p>9 admission of guilt to the dismissal is a fairly</p> <p>10 lengthy process; is that fair to say?</p> <p>11 A. It can be, yes.</p> <p>12 Q. How long can it take?</p> <p>13 A. It can some -- sometimes take over a</p> <p>14 year.</p> <p>15 Q. All right. And during that year these</p> <p>16 children are appearing in the juvenile drug court</p> <p>17 before the judge to talk about their compliance,</p> <p>18 yes?</p> <p>19 A. They are.</p> <p>20 Q. And they might be asked about drug use?</p> <p>21 A. Yes.</p> <p>22 Q. They might be asked incriminating</p> <p>23 questions?</p> <p>24 A. Yes.</p> <p>25 Q. How frequently are you appearing in the</p>	<p style="text-align: right;">Page 136</p> <p>1 court finding?</p> <p>2 A. Yes.</p> <p>3 Q. What is the practice or policy across</p> <p>4 the state for informing youth of their right to</p> <p>5 appeal and what steps to take?</p> <p>6 A. Sure. So I don't know what other</p> <p>7 individuals do. I can speak to what our practice is</p> <p>8 is --</p> <p>9 Q. Okay. So before we get to your</p> <p>10 practice --</p> <p>11 A. Sure.</p> <p>12 Q. -- there's no manual, policy, procedure</p> <p>13 to ensure best practices around appeals being taken</p> <p>14 for young people statewide?</p> <p>15 A. No.</p> <p>16 Q. Okay. And then your practice?</p> <p>17 A. Is to after a child is adjudicated</p> <p>18 speak with them about what their right is to appeal</p> <p>19 and talk with them about what that would entail, and</p> <p>20 then if they want to appeal, filing the notice of</p> <p>21 appeal and sending it to our juvenile appellate</p> <p>22 person.</p> <p>23 Q. Okay. And you mentioned you do this</p> <p>24 after there is an adjudication for a young person,</p> <p>25 yes?</p>

34 (Pages 133 to 136)

<p style="text-align: right;">Page 137</p> <p>1 A. And -- yes. And disposition.</p> <p>2 Q. Okay. So after a case is resolved with</p> <p>3 adjudication and disposition or in grown-up speak</p> <p>4 finding of guilt and sentence, yes?</p> <p>5 A. Yes.</p> <p>6 Q. You do that in cases where there has</p> <p>7 been a trial; is that right?</p> <p>8 A. That's correct.</p> <p>9 Q. What about in all of your plea cases?</p> <p>10 A. No.</p> <p>11 Q. Do you not in the -- as a matter of</p> <p>12 course speak to children who have pleaded guilty and</p> <p>13 had their cases disposed of or had disposition tell</p> <p>14 them about their right to appeal?</p> <p>15 A. No.</p> <p>16 Q. Why not?</p> <p>17 A. That's a good question. I don't know.</p> <p>18 Q. What is a child's right to appeal</p> <p>19 following a guilty plea?</p> <p>20 A. So I can tell you what -- what an</p> <p>21 adult -- adult has PCR rights. I don't know that</p> <p>22 there is case law in Missouri about whether a child</p> <p>23 has postconviction rights.</p> <p>24 Q. But I mean a direct appeal following</p> <p>25 the plea of guilty and then an imposition of what</p>	<p style="text-align: right;">Page 139</p> <p>1 A. Yes.</p> <p>2 Q. Are you aware of how many arrests have</p> <p>3 taken place in the city of St. Louis since you work</p> <p>4 there relating to protesters?</p> <p>5 A. Hundreds.</p> <p>6 Q. And are you familiar of any -- familiar</p> <p>7 with any offer by our attorney general Josh Hawley</p> <p>8 to the city prosecutor Kim Gardner with regard to</p> <p>9 those cases?</p> <p>10 A. I -- I'm not aware.</p> <p>11 Q. Would it surprise you to hear that Josh</p> <p>12 Hawley has offered Kim Gardner assistance to help</p> <p>13 prosecute those protest cases in the city of</p> <p>14 St. Louis?</p> <p>15 MR. MOORE: I'll object to -- you can</p> <p>16 go ahead.</p> <p>17 MS. SHIPMA: I was going to object to</p> <p>18 this. I mean, she was designated to talk about</p> <p>19 juvenile matters.</p> <p>20 MS. QUINN: Yes, uh-huh.</p> <p>21 MS. SHIPMA: And -- and this seems --</p> <p>22 MS. QUINN: It's a foundation to --</p> <p>23 I'll get -- I'll go directly to it then.</p> <p>24 MS. SHIPMA: Okay.</p> <p>25 MS. QUINN: That's fine.</p>
<p style="text-align: right;">Page 138</p> <p>1 grown-ups would call a sentence.</p> <p>2 A. Correct.</p> <p>3 Q. Is there no direct appeal right from</p> <p>4 that?</p> <p>5 A. I believe there is, but I have -- I</p> <p>6 have not talked to a child about that.</p> <p>7 Q. Do children waive their right to appeal</p> <p>8 when they take a plea?</p> <p>9 A. No.</p> <p>10 Q. How many appeals were filed for</p> <p>11 juveniles across the State of Missouri last year if</p> <p>12 you know?</p> <p>13 A. I don't.</p> <p>14 Q. How many appeals were filed by the city</p> <p>15 of St. Louis office or request to appeal?</p> <p>16 A. In 2016? Probably less than five.</p> <p>17 Q. Okay. Shifting gears a little bit, so</p> <p>18 I -- do you live in the city or county?</p> <p>19 A. I live in St. Louis County.</p> <p>20 Q. Okay. But you're aware of much of</p> <p>21 what's unfolding in the city of St. Louis around the</p> <p>22 protests relating to the Stockley verdict, yes?</p> <p>23 A. Yes.</p> <p>24 Q. Some is happening in the county of</p> <p>25 St. Louis, but some is happening in the city, yes?</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. (By Ms. Quinn) Has -- has your office,</p> <p>2 the city of St. Louis's public defender office</p> <p>3 received any offer of assistance from Josh Hawley's</p> <p>4 office to defend matters?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. No post-Stockley verdict letters have</p> <p>7 come to you to assist -- to offer assistance to you</p> <p>8 or your colleagues in defending any cases in the</p> <p>9 city of St. Louis?</p> <p>10 A. No letters have come to me personally.</p> <p>11 Q. Is there anything else you think I</p> <p>12 should ask you about that I've not asked you about</p> <p>13 relating to juvenile practices, procedures, and</p> <p>14 policies for the Missouri public defender system?</p> <p>15 A. There is nothing that I can think of.</p> <p>16 There is one correction, though, that I would like</p> <p>17 to make, which is I think that I probably have done</p> <p>18 less than 20 of the motions to release the youth.</p> <p>19 You were talking about the --</p> <p>20 Q. Detention review motions?</p> <p>21 A. Yes. Yeah.</p> <p>22 Q. Fair enough. Fair enough. So before</p> <p>23 we wrap up, you did indicate earlier that -- that</p> <p>24 your caseload and -- and some of your</p> <p>25 responsibilities, the just amount of cases and</p>

35 (Pages 137 to 140)

<p style="text-align: right;">Page 141</p> <p>1 responsibilities that you have has prevented you 2 from doing everything you think is necessary in at 3 least some juvenile cases? 4 A. Yes. 5 Q. Can you tell us more about that? 6 A. So I can tell you that I've been 7 practicing juvenile for three years, specifically 8 juvenile. When I first started I handled both 9 Jefferson County conflicts, adult conflicts as well 10 as juvenile cases. That was too much. That was a 11 lot of moving parts of traveling and so I believe 12 that there were youth that I could have impacted 13 more effectively during that time. 14 Also, I believe that while my caseload 15 is significantly lower and I have been able to do a 16 lot of work with regard to youth, I think that time 17 is a big issue. So doing all of the detention 18 hearings and ensuring that each client receives the 19 effective representation, I think that sometimes the 20 caseloads are too high to be doing every single 21 thing that I would like to do. 22 MS. QUINN: Okay. I have nothing 23 further. 24 MR. MOORE: Yeah, so I mean, do you 25 want to keep going?</p>	<p style="text-align: right;">Page 143</p> <p>1 filling in some of the blanks and asking you some 2 follow-up questions if that's all right. 3 A. Sure. 4 Q. So we had discussed briefly your 5 educational background and I believe you said you 6 went to Saint Louis University for undergraduate. 7 Is that right? 8 A. Yes. 9 Q. And then also SLU Law? 10 A. Yes. 11 Q. And any additional schooling after 12 that? 13 A. No. 14 Q. Okay. Now, when you went to Saint 15 Louis University for your undergraduate degree, what 16 was that degree in? 17 A. I got a bachelor's in political science 18 and a mine -- and a minor in Spanish and I was a 19 prelaw scholar. 20 Q. Okay. And did you have any particular 21 specialization or focus when you went to the Saint 22 Louis University School of Law? 23 A. Yes. I -- 24 Q. And what was that? 25 A. Focused on criminal law.</p>
<p style="text-align: right;">Page 142</p> <p>1 VIDEOGRAPHER: Do you want to go off 2 the record? 3 MR. MOORE: Sure. 4 VIDEOGRAPHER: We're going off the 5 record at approximately 11:43 a.m. 6 (WHEREIN, a recess was taken.) 7 VIDEOGRAPHER: We're back on the record 8 at approximately 11:51 a.m. 9 EXAMINATION 10 QUESTIONS BY MR. MOORE: 11 Q. Good afternoon. Could you please state 12 your full name for the record with the middle name 13 spelled out as well? 14 A. Sure. My name is Sarah with an H, 15 middle name Kennedy, K-E-N-N-E-D-Y, and my last name 16 is Johnson, J-O-H-N-S-O-N. 17 Q. Okay. Sarah, my name is Justin Moore. 18 I'm here for the State of Missouri and also now for 19 Governor Greitens. 20 (Court reporter interruption.) 21 Q. (By Mr. Moore) So my name is Justin 22 Moore. I'm here on behalf of the State of Missouri 23 and also for Governor Greitens. And my entry was 24 filed at the beginning of this deposition. So I'm 25 just going to be going back to the beginning kind of</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Okay. So is it safe to say that you 2 don't really have any particular specialization in 3 like statistical analysis? 4 A. No, I do not. 5 Q. Okay. No particular specialized 6 background in sociological studies or psychological 7 studies of any kind? 8 A. No. 9 Q. Okay. And you don't have like a major 10 in math or any kind of mathematical background other 11 than general coursework in your undergraduate, 12 right? 13 A. I do not. 14 Q. Okay. So then going back to some of 15 these reports we were looking at earlier, I guess 16 we'll start at the very beginning. So we can look 17 at Plaintiff's Exhibit 21, the Spangenberg report I 18 think is how it's been pronounced. 19 A. Okay. 20 Q. And I'm sorry, heard you say that you 21 had reviewed this report prior to the deposition 22 today? 23 A. No, I did not. 24 Q. So this is the first time you're seeing 25 this report; is that correct?</p>

<p style="text-align: right;">Page 145</p> <p>1 A. Yes.</p> <p>2 Q. And so you wouldn't be able to assess</p> <p>3 with any degree of certainty whether the methodology</p> <p>4 or statistics that underpin this report were in any</p> <p>5 way accurate; is that right?</p> <p>6 A. I cannot speak to that, no.</p> <p>7 Q. Okay. And you had nothing to do with</p> <p>8 the production or creation of the data that they use</p> <p>9 in this report; is that right?</p> <p>10 A. No.</p> <p>11 Q. And you haven't taken any steps to</p> <p>12 verify that the findings of this report or that the</p> <p>13 numbers in this report are accurate, right?</p> <p>14 A. I have not.</p> <p>15 Q. So any commentary that you would make</p> <p>16 about the report or whether it's accurate or</p> <p>17 inaccurate it would just be kind of your personal</p> <p>18 opinion based on your review here today at the</p> <p>19 deposition; is that right?</p> <p>20 A. Opinions with regard to --</p> <p>21 Q. Whether the finding of the report are</p> <p>22 accurate or inaccurate or whether they I guess jibe</p> <p>23 with your own experience; it would strictly be based</p> <p>24 on your review of this report here today and your</p> <p>25 time as a public defender?</p>	<p style="text-align: right;">Page 147</p> <p>1 what if any data was collected with regard to the</p> <p>2 public defender system, no, I did not have anything</p> <p>3 to do with that either.</p> <p>4 Q. Okay. And so you wouldn't know whether</p> <p>5 the data was accurate or inaccurate -- or</p> <p>6 inaccurate, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. You haven't independently reviewed the</p> <p>9 data in any way?</p> <p>10 A. I have not.</p> <p>11 Q. Okay. And was this one that you say</p> <p>12 you had reviewed prior to the deposition today or</p> <p>13 had you not?</p> <p>14 A. No, I -- I had reviewed that prior to</p> <p>15 the deposition.</p> <p>16 Q. Okay.</p> <p>17 MS. SHIPMA: That was affirmative, you</p> <p>18 had reviewed it?</p> <p>19 THE WITNESS: I have, yes.</p> <p>20 Q. (By Mr. Moore) So the same questions</p> <p>21 as to Exhibit 23, so we're looking at the Department</p> <p>22 of Justice Civil Rights Division report of</p> <p>23 July 31st, 2015.</p> <p>24 A. Okay.</p> <p>25 Q. Again, for this one as to the</p>
<p style="text-align: right;">Page 146</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And do you know the people who</p> <p>3 wrote this report?</p> <p>4 A. I do not.</p> <p>5 Q. Have you ever spoken with any of those</p> <p>6 people?</p> <p>7 A. I have not.</p> <p>8 Q. Okay. I guess I would just have the</p> <p>9 same questions as to the other reports that were</p> <p>10 reviewed today. So we have Plaintiff's Exhibit</p> <p>11 Number 22.</p> <p>12 A. Yes.</p> <p>13 Q. And same general questions as to this</p> <p>14 report. To the extent there's any kind of analysis</p> <p>15 of data or, you know, collection of data,</p> <p>16 methodology, you wouldn't have any experience with</p> <p>17 those methods, would you?</p> <p>18 A. With the methods that were used in this</p> <p>19 report?</p> <p>20 Q. Right.</p> <p>21 A. So the -- from my understanding the</p> <p>22 methods that were used in this report were the</p> <p>23 numbers from the Office of State Courts</p> <p>24 Administrator. So I don't know what -- how they</p> <p>25 collected that data, no. And with regard to the --</p>	<p style="text-align: right;">Page 148</p> <p>1 methodology or research that it took to create this</p> <p>2 report, you are not personally aware of like the</p> <p>3 methodology that they utilized; is that right?</p> <p>4 A. I am not personally -- personally</p> <p>5 aware, no.</p> <p>6 Q. And you didn't have anything to do with</p> <p>7 the collection of that data personally?</p> <p>8 A. I did not.</p> <p>9 Q. Do you know who wrote this report?</p> <p>10 A. I don't know who wrote this report.</p> <p>11 Q. Okay. And had you reviewed this report</p> <p>12 prior to the deposition today?</p> <p>13 A. Yes, I have.</p> <p>14 Q. Okay.</p> <p>15 (WHEREIN, a discussion was held off the</p> <p>16 record.)</p> <p>17 Q. (By Mr. Moore) I'm sorry, I may have</p> <p>18 asked this already, but as far as the data utilized</p> <p>19 in this report you wouldn't have any knowledge or</p> <p>20 understanding of like how they generated that data</p> <p>21 or collected that data; is that right?</p> <p>22 A. I mean, I know the -- how they</p> <p>23 collect -- I mean, I know that they collected data</p> <p>24 from St. Louis County and through interviews through</p> <p>25 looking at case files and things like that, but I</p>

37 (Pages 145 to 148)

<p style="text-align: right;">Page 149</p> <p>1 don't know how they then processed those into 2 numbers. 3 (Court reporter interruption.) 4 A. Processed that into the numbers and the 5 statistics that they used, correct. I was not 6 present for that. 7 Q. (By Mr. Moore) Okay. And so as far as 8 you know, these numbers could be accurate, 9 inaccurate, you just don't know, right? 10 A. I don't know -- I have not reviewed 11 the -- the statistical analysis of this, no. 12 Q. Okay. Okay. So now looking at 13 Exhibit 26, that's the RubinBrown report. 14 A. Yes. 15 Q. And forgive me again I can't recall, 16 had you seen this report prior to the deposition 17 today? 18 A. No. 19 Q. So you hadn't reviewed it in any 20 capacity, this is just the first time you've been 21 presented with this report? 22 A. I -- I've seen portions of this report, 23 but no, I have not read it page to -- from front to 24 back. 25 Q. Okay. But again, you know, to the</p>	<p style="text-align: right;">Page 151</p> <p>1 every county in Missouri, right? 2 A. I have not practiced in every county, 3 no. 4 Q. And in fact, earlier I think you said 5 that it was five counties that you have practiced 6 in, correct? 7 A. I don't know the exact number, but yes, 8 I listed off those counties. Yes. 9 Q. Okay. Do you think there were counties 10 that you practiced in that were not listed off 11 earlier? 12 A. No. I just don't know the exact 13 number. I -- I know the counties that I've listed 14 off, but I don't know -- 15 Q. Okay. No, that's totally fine. 16 A. Yeah. 17 Q. But those counties appear to be located 18 generally around the St. Louis area, right? 19 A. That is correct, yes. 20 Q. So it's like Jefferson County and 21 St. Louis County, things of that nature, correct? 22 A. That's correct. 23 Q. So you wouldn't really have any idea 24 about what's going on, for example, on the -- on the 25 other side of the state, those counties and those</p>
<p style="text-align: right;">Page 150</p> <p>1 extent there's any data involved in the generation 2 of this report, you wouldn't be able to give any 3 kind of opinion as to whether the methodology was, 4 you know, the right methodology to use or whether 5 the numbers are accurate; is that right? 6 A. Yes, that is correct. 7 Q. Okay. And you don't know the people 8 who generated this report, do you? 9 A. The -- the individuals? 10 Q. Right. 11 A. No, I do not. 12 Q. You never talked to those individuals 13 before? 14 A. No, I did not. 15 Q. Okay. Now, the -- a number of 16 questions have been asked about procedures in the 17 St. Louis city office which is where I -- I mean, I 18 think you operate out of, right? 19 A. Yes. 20 Q. But also as to other counties in the 21 State of Missouri, right? 22 A. So the questions that were asked, yes, 23 they were asked about this -- other counties as 24 well, yes. 25 Q. Right. But you have not practiced in</p>	<p style="text-align: right;">Page 152</p> <p>1 offices; is that right? 2 A. So I've corresponded with individuals 3 across the state, but I don't know the daily ins and 4 outs, no, of what happens in each circuit. 5 Q. Okay. And when you say you 6 corresponded, what do you mean exactly? 7 A. So if a attorney has a question about a 8 juvenile matter, then they are directed to me. 9 Q. Okay. So has any attorney from, you 10 know, some of those other counties have they ever 11 sent you a list here -- here are policies that we 12 have in our office and let's compare policies to the 13 St. Louis city office? Have you ever -- 14 A. No. 15 Q. And I'm sorry, the answer? 16 A. No. 17 Q. Okay. So as far as you know, they were 18 asking about the daily policies and procedures and 19 whether the offices across the State of Missouri do 20 X or Y thing, you would not really have any 21 knowledge as to what they are doing; is that right? 22 A. I do not have any knowledge. 23 Q. Okay. And that doesn't say anything 24 about whether, you know, their policies are better 25 or worse than St. Louis city, could go either way,</p>

<p style="text-align: right;">Page 153</p> <p>1 you just simply don't know, correct?</p> <p>2 A. That is correct.</p> <p>3 Q. Okay. Now, you were asked earlier</p> <p>4 about having to enter some time for the work that</p> <p>5 you were doing, right?</p> <p>6 A. Yes.</p> <p>7 Q. Tell me a little bit more about when</p> <p>8 that took place.</p> <p>9 A. I don't know the exact year, but we</p> <p>10 were asked to start time logging.</p> <p>11 Q. Okay.</p> <p>12 A. And we were asked to keep our time in</p> <p>13 five-minute increments.</p> <p>14 Q. Okay. And do you know whether it's</p> <p>15 typical in the legal profession to bill your time?</p> <p>16 A. I know in the civil world that usually</p> <p>17 civil defendant attorneys do have to keep their</p> <p>18 time.</p> <p>19 Q. Okay. But you say in the criminal</p> <p>20 world people don't usually bill their time in that</p> <p>21 manner?</p> <p>22 A. No, I -- I don't -- I don't know what</p> <p>23 private attorneys do. I can't speak to what they</p> <p>24 do.</p> <p>25 Q. Okay. You've only ever worked as an</p>	<p style="text-align: right;">Page 155</p> <p>1 Q. But that's not the amount of hours that</p> <p>2 you spend on each juvenile case, right?</p> <p>3 A. I can't speak to each case, but each</p> <p>4 case is going to be different. So --</p> <p>5 Q. Well, exactly, right? So I mean, each</p> <p>6 case has different needs and so some cases are going</p> <p>7 to get more hours and some are going to get less</p> <p>8 hours; is that fair?</p> <p>9 A. I would hope that a juvenile case would</p> <p>10 not get less than 4.6 hours, but I -- I would</p> <p>11 definitely say yes, most of my cases get more than</p> <p>12 4.6 hours.</p> <p>13 Q. Right. I'm just generally speaking,</p> <p>14 though, so each case has different needs?</p> <p>15 (Court reporter interruption.)</p> <p>16 Q. (By Mr. Moore) Okay. Generally</p> <p>17 speaking, each case has different needs, right?</p> <p>18 A. Yes.</p> <p>19 Q. So some cases are going to require way</p> <p>20 more than the 4.6 hours and you give those cases</p> <p>21 more than 4.6 hours, right?</p> <p>22 A. Yes.</p> <p>23 Q. And there are cases that sometimes</p> <p>24 require at 4.6 hours or maybe even less than</p> <p>25 4.6 hours, right?</p>
<p style="text-align: right;">Page 154</p> <p>1 attorney at a public defender's office; is that</p> <p>2 right?</p> <p>3 A. That's correct.</p> <p>4 Q. So you've never worked in private</p> <p>5 practice or in any other capacity on any other area</p> <p>6 of law, just the public defender's office?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. There's been some discussion</p> <p>9 about the average time spent on cases. Do you</p> <p>10 remember -- do you recall that discussion?</p> <p>11 A. Yes.</p> <p>12 Q. Would you say that those numbers are</p> <p>13 not representative of every single case that you</p> <p>14 have before you?</p> <p>15 MS. SHIPMA: I'm going to object.</p> <p>16 Which cases are you speaking about? Which averages?</p> <p>17 Q. (By Mr. Moore) So I believe that there</p> <p>18 was a number thrown around the public defender has</p> <p>19 like four hours per a particular type of case.</p> <p>20 MS. SHIPMA: That was 4.6 per juvenile</p> <p>21 case.</p> <p>22 Q. (By Mr. Moore) Okay. So that's good.</p> <p>23 We can go with that. So 4.6 per juvenile case.</p> <p>24 Does that figure sound familiar?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 156</p> <p>1 A. They could potentially.</p> <p>2 Q. Right. So when you're looking at like</p> <p>3 an average of the number of hours you spend on</p> <p>4 cases, that's not representative necessarily of how</p> <p>5 much you spend on every particular juvenile case,</p> <p>6 right?</p> <p>7 A. You're asking if 4.6 is representative?</p> <p>8 MS. SHIPMA: Of what she spends?</p> <p>9 Q. (By Mr. Moore) Yeah. So for yourself</p> <p>10 personally, the 4.6 figure, basically an average is</p> <p>11 just an average, correct, it doesn't say how much</p> <p>12 you're spending on every single one of your cases?</p> <p>13 A. That number of 4.6 is not indicative of</p> <p>14 the number of hours I spend on my cases, no.</p> <p>15 Q. Okay. And you think you spend more</p> <p>16 than 4.6 on your cases probably?</p> <p>17 A. I would say yes.</p> <p>18 Q. Okay. So there's also been some</p> <p>19 discussion of the training that public defenders go</p> <p>20 through as it pertains to general public defender</p> <p>21 service and then also as to the juvenile-specific</p> <p>22 section. Do you recall that testimony?</p> <p>23 A. Yes.</p> <p>24 Q. I think you talked about there's like a</p> <p>25 conference that the public defenders go to each</p>

<p style="text-align: right;">Page 157</p> <p>1 year?</p> <p>2 A. With regard to adult or juvenile</p> <p>3 representation?</p> <p>4 Q. I just remember you said there was some</p> <p>5 like statewide public defender conference that they</p> <p>6 go to; is that accurate or --</p> <p>7 A. So there are -- there are conferences,</p> <p>8 but I don't know whether you're referring to</p> <p>9 juvenile or adults representation.</p> <p>10 Q. I guess let me just kind of go through</p> <p>11 again, like is there an annual training of some</p> <p>12 kind?</p> <p>13 A. Sure. So there is an annual spring</p> <p>14 training for all public defender attorneys and then</p> <p>15 we also put on a juvenile-specific training once a</p> <p>16 year.</p> <p>17 Q. Okay. And tell me a little bit about</p> <p>18 the annual spring training. How long does that last</p> <p>19 and what goes on at those trainings?</p> <p>20 A. It's a little bit less than a week.</p> <p>21 It's usually from a Tuesday to a Friday. And there</p> <p>22 is training on and CLE credit on any number of -- of</p> <p>23 issues.</p> <p>24 Q. Okay. And how about the</p> <p>25 juvenile-specific training, what does that look</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. Okay. And do you know whether, you</p> <p>2 know, any specific training materials are provided</p> <p>3 for those other subspecialties?</p> <p>4 A. I -- I can't speak to that, no.</p> <p>5 Q. Okay. So you're just not sure one way</p> <p>6 or another if they provide --</p> <p>7 A. That's correct.</p> <p>8 Q. Okay.</p> <p>9 MS. SHIPMA: Sarah was provided to</p> <p>10 speak on juvenile matters, not the MSPD system as a</p> <p>11 whole.</p> <p>12 MR. MOORE: Okay.</p> <p>13 MS. SHIPMA: Those depositions were</p> <p>14 Wednesday.</p> <p>15 MR. MOORE: Okay.</p> <p>16 Q. (By Mr. Moore) But in any event, as</p> <p>17 far as, you know, the juvenile-specific attorney</p> <p>18 materials you're provided, you could be being</p> <p>19 provided the same amount of materials as other</p> <p>20 public defenders with their specialties or more or</p> <p>21 less, you're just not sure I guess; is that right?</p> <p>22 MS. QUINN: Objection, form of the</p> <p>23 question, vague. I just don't know what you're</p> <p>24 asking.</p> <p>25 A. I don't either. I apologize. I have</p>
<p style="text-align: right;">Page 158</p> <p>1 like?</p> <p>2 A. Sure. It's about the same, two to</p> <p>3 three days and it's training on specific juvenile</p> <p>4 issues.</p> <p>5 Q. Okay. So it's your opinion that</p> <p>6 juvenile cases involve specific issues that are</p> <p>7 special to juvenile cases, correct?</p> <p>8 A. Absolutely.</p> <p>9 Q. And you testified that areas of</p> <p>10 knowledge would include like brain development and</p> <p>11 there are some other things as well, but that's a</p> <p>12 special area of knowledge that a juvenile attorney</p> <p>13 would require, right?</p> <p>14 A. Yes.</p> <p>15 Q. Now, do you think there are special</p> <p>16 areas of knowledge that other public defenders</p> <p>17 working in other areas of law would also require?</p> <p>18 A. I definitely think there are other</p> <p>19 specialties or other subsets of criminal cases that</p> <p>20 an attorney could specialize in, yes.</p> <p>21 Q. Okay. So like if somebody is handling</p> <p>22 murder cases they probably would be dealing with</p> <p>23 different specialized issues than, you know, the</p> <p>24 juvenile cases, right?</p> <p>25 A. One would think so, yes.</p>	<p style="text-align: right;">Page 160</p> <p>1 no idea what you're asking.</p> <p>2 Q. (By Mr. Moore) Okay. So if there's</p> <p>3 discussion about, you know, if there's any</p> <p>4 juvenile-specific brochures or, you know, training</p> <p>5 materials provided regarding juvenile cases, do you</p> <p>6 recall those questions?</p> <p>7 A. Yes.</p> <p>8 Q. And so I believe you said that you</p> <p>9 weren't really aware of any and that you were</p> <p>10 working on a brochure of some kind at this time as</p> <p>11 well, amongst other testimony. Is that familiar?</p> <p>12 A. The brochure that you're referring to</p> <p>13 is the collateral consequences brochure that I'm</p> <p>14 work -- we're collaborating with the National</p> <p>15 Juvenile Defender Center. So --</p> <p>16 Q. Right.</p> <p>17 A. Yes. So we are working --</p> <p>18 (Court reporter interruption.)</p> <p>19 A. National Juvenile Defender Center. I'm</p> <p>20 providing that to the state. But no, currently</p> <p>21 there is not a brochure on collateral consequences.</p> <p>22 Q. (By Mr. Moore) And -- okay, very good.</p> <p>23 And as to juvenile-specific issues as well, I</p> <p>24 don't -- I think you said you weren't aware of any</p> <p>25 specific materials for juvenile cases that are</p>

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<p>1 provided to public defenders; is that right?</p> <p>2 A. That is correct.</p> <p>3 Q. Okay. But you're not sure whether</p> <p>4 that's typical of other specialties of the public</p> <p>5 defender's office as well; is that correct?</p> <p>6 A. I -- I don't know.</p> <p>7 Q. Okay. Because I mean, it could be</p> <p>8 that, you know, they do have materials or they don't</p> <p>9 have materials, you just don't know, you know about</p> <p>10 the juvenile arena only, right?</p> <p>11 A. I -- I know about juvenile-specific,</p> <p>12 yes.</p> <p>13 Q. Okay. But you know, attorneys that are</p> <p>14 hired by the public defender's office they've all</p> <p>15 gone to law school, right?</p> <p>16 A. Yes.</p> <p>17 Q. And they've all passed the bar exam?</p> <p>18 A. Yes.</p> <p>19 Q. Public defender's office do you have</p> <p>20 access to legal research materials of any kind?</p> <p>21 A. Yes.</p> <p>22 Q. And what are those legal research</p> <p>23 materials?</p> <p>24 A. We have access to Westlaw.</p> <p>25 Q. And as far as your Westlaw sub --</p>	<p>1 MS. SHIPMA: Yeah.</p> <p>2 MR. MOORE: I'm asking about the access</p> <p>3 to like legal research materials and whether they</p> <p>4 are --</p> <p>5 MS. SHIPMA: For her --</p> <p>6 MR. MOORE: -- adequate.</p> <p>7 MS. SHIPMA: -- or for the entire</p> <p>8 system of attorneys?</p> <p>9 MS. QUINN: Juvenile, not juvenile?</p> <p>10 MR. MOORE: We're talking about for</p> <p>11 herself.</p> <p>12 MS. SHIPMA: For herself, okay.</p> <p>13 MR. MOORE: Right.</p> <p>14 A. So you're asking if there's a new type</p> <p>15 of law that I need to have access to, do I have</p> <p>16 research materials?</p> <p>17 Q. (By Mr. Moore) I'll just rephrase the</p> <p>18 question, I guess, right.</p> <p>19 So you have been given access to</p> <p>20 Westlaw, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And are there other like legal research</p> <p>23 avenues or utilities that you can utilize?</p> <p>24 A. I mean, we have interns that we can</p> <p>25 rely on to get access to documents that we need. I</p>
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<p>1 subscription goes, I mean, are there any significant</p> <p>2 limitations on it that you've noticed or do you</p> <p>3 pretty much have access to what you need to access?</p> <p>4 A. I -- I mean, I think that there --</p> <p>5 would it be lovely to have all of -- access to the</p> <p>6 entire Westlaw subscription, absolutely, but I think</p> <p>7 that generally speaking I have access to the</p> <p>8 appropriate case law that I need to access.</p> <p>9 Q. Okay. So generally you're able to</p> <p>10 access the materials that you need for your cases,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And also materials that you would need</p> <p>14 to apprise yourself of changes in the law, right?</p> <p>15 A. With regard to Westlaw access?</p> <p>16 Q. Or other research materials or avenues</p> <p>17 that are provided to you.</p> <p>18 A. Yes, we are -- we -- we have the</p> <p>19 ability to find out what laws have changed, yes.</p> <p>20 Q. Okay. And to learn about new areas of</p> <p>21 law that maybe you have been assigned to deal with,</p> <p>22 but have never dealt with before?</p> <p>23 MS. QUINN: Objection as to form. I</p> <p>24 still don't know kind of what -- are you asking</p> <p>25 about her specifically, the system?</p>	<p>1 also can utilize resources such as the National</p> <p>2 Juvenile Defender Center to provide with documents.</p> <p>3 Yes, I mean, I have -- I have the ability to go</p> <p>4 outside of the -- of Westlaw and get legal research,</p> <p>5 yes.</p> <p>6 Q. Okay. And is that how you trained</p> <p>7 yourself to be competent in the juvenile</p> <p>8 representation?</p> <p>9 MS. SHIPMA: I object. This is --</p> <p>10 you're assuming that she trained herself. She</p> <p>11 hasn't said that she trained herself.</p> <p>12 Q. (By Mr. Moore) Okay. So I guess I'll</p> <p>13 ask how -- whenever you started at the public</p> <p>14 defender's office you were not in the juvenile</p> <p>15 arena; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. How did you become competent and train</p> <p>18 to step into that arena?</p> <p>19 A. Sure. So I think competence is</p> <p>20 something that you're always continuing to grow</p> <p>21 upon, so I think that -- I'm not saying that I</p> <p>22 have -- I'm completely competent in the area of</p> <p>23 juvenile law, but I have attend the National</p> <p>24 Juvenile Defender Center trainings for approximately</p> <p>25 the past five years, since 2012. I have also been</p>

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<p style="text-align: right;">Page 165</p> <p>1 JTIP-certified. So I am certified to train others 2 in juvenile law. 3 I have attended the JTIP summer 4 academy, so I have myself been trained. I attend 5 the juvenile trainings every year since the year 6 2013. And I help present at those trainings. I -- 7 and I read and I -- I try to do my best to keep up 8 with the new case law that comes through with regard 9 to juvenile-specific issues. 10 Q. Okay. Okay. And would those same -- 11 would those same avenues be available for other 12 attorneys that are in your office who are looking to 13 step into the juvenile arena as well? 14 A. Well, they would have to apply through 15 our training division to go to the -- to the 16 trainings. Just anyone can't go to the training. 17 It -- it's costly, so you have to apply to do those 18 trainings. 19 Q. Uh-huh. 20 A. Of course, they are able to educate 21 themselves on juvenile law -- law through case law 22 and national standards. And then they can, yes, go 23 to the trainings that are once a year. 24 Q. Okay. I also understand you testified 25 earlier something about a motions bank; is that</p>	<p style="text-align: right;">Page 167</p> <p>1 Q. Okay. Has there ever been a time when 2 you went to the motions bank and were unable to find 3 like a basic motion that you were just trying to 4 utilize in your practice? 5 A. No. 6 Q. Okay. And so all the public defenders 7 that deal with parole matters would have access to 8 this motions bank? 9 MS. SHIPMA: That deal with what kind 10 of matters? 11 MS. QUINN: I'm sorry, what? 12 MR. MOORE: The -- I think I said 13 parole. The -- 14 MS. QUINN: Yeah. 15 MR. MOORE: Did I say parole or did I 16 say juvenile? 17 MS. QUINN: You did say parole. 18 THE WITNESS: Parole. 19 MR. MOORE: Okay. Sorry. So I'll 20 strike that. 21 MS. QUINN: That's my other case. 22 MR. MOORE: Right. Right. 23 Q. (By Mr. Moore) Juvenile matters. So 24 would other attorneys working on juvenile matters 25 have access to this motions bank?</p>
<p style="text-align: right;">Page 166</p> <p>1 right? 2 A. Yes. 3 Q. Tell me a little bit about the motions 4 bank. 5 A. So it's a -- it's a area where 6 defenders can go to look at motions for their cases. 7 Q. Okay. Tell me a little bit more. So 8 is it like case-specific, do you pull up cases in 9 there or are they like just a bank of here's a 10 motion to dismiss and there's a bunch of examples? 11 What does it look like, I guess? 12 A. It would not be case-specific in case 13 there would -- are potential conflicts. I think it 14 would be topic-specific. 15 Q. Okay. So you have this bank of motions 16 and do you have any knowledge as to like how far 17 back this motions bank goes? 18 A. I don't. 19 Q. Okay. Would you say there's like a 20 voluminous amount of motions and examples inside the 21 bank? 22 A. I can't speak to that. 23 Q. Okay. Would you say there's like an 24 adequate amount of motions in the bank? 25 A. I can't speak to that.</p>	<p style="text-align: right;">Page 168</p> <p>1 A. Yes. 2 Q. Okay. So let me talk a little bit 3 about the detention hearing aspect of this. 4 A. Uh-huh. 5 Q. I think you said earlier there was like 6 a time constraint as it pertains to getting 7 counsel -- separate counsel for every single 8 juvenile who might be facing this detention hearing 9 at the same time. Do you recall that conversation 10 earlier? 11 A. Yes. 12 Q. Tell me a little bit about the time 13 constraints. I think you said there's like a 14 three-day period? 15 A. Correct. So from when the petition is 16 filed until detention hearing, the detention hearing 17 shall be heard within three days of that petition 18 being filed. 19 Q. Okay. And so as far as, you know, the 20 restrictions on getting counsel for -- conflicts 21 counsel for these hypothetical juveniles, what are 22 the -- is it simply a time constraint, there's no 23 time to process these claims or what is preventing 24 that from taking place in your opinion? 25 A. Well, sure. It's -- it's a number of</p>

<p style="text-align: right;">Page 169</p> <p>1 things. It -- before we had to contract cases 2 through Columbia the defenders who were taking these 3 contract cases might have court. So three days' 4 notice is not a lot of notice to give someone to 5 then have to appear in court. 6 They could be in other juris -- they 7 are in other jurisdictions, and so it is an 8 impediment to have to come down and -- and do 9 something at a specific time. So that is one of the 10 constraints. The other constraint now is that in 11 order to contract a case it has to go through 12 Columbia and then Columbia needs to find the 13 attorneys that are going to be representing those 14 youth. So that is now the constraint. So three 15 days is simply not enough time to be able to do 16 that. 17 Q. So for instance, it sounds like it's 18 just a quick turnaround with three days, and also 19 there's just some administrative things that need to 20 be gone through and it takes time; is that accurate? 21 MS. QUINN: Objection. That's not -- I 22 would object to the form of the question as 23 mischaracterizing her testimony. 24 MR. MOORE: Just a -- just a question. 25 I guess can you read the question back?</p>	<p style="text-align: right;">Page 171</p> <p>1 counsel, three days is just kind of quick; is that 2 accurate? 3 A. It is very quick. 4 Q. On the other side of that you also said 5 that there were some issues with getting the pieces 6 in line or recruiting counsel, making sure their 7 calendars were cleared, things of that nature; is 8 that right? 9 A. So that was the first thing that you 10 just -- that we just talked about. The second thing 11 is that now we refer all cases that are conflicts 12 through Columbia, okay? And so now Columbia has to 13 then find all of the contract attorneys that are 14 going to represent those youth. So then that -- 15 that is an additional piece of time. And these are 16 also attorneys who are representing other 17 individuals and so they have time constraints and 18 court hearings that they potentially have to attend 19 as well. 20 Q. Okay. Do you know why it all goes 21 through Columbia? 22 A. That is where we -- how we contract 23 attorneys. Columbia is the main office. 24 Q. Okay. And do you have anything to do 25 with that decision as to base it all in Columbia or</p>
<p style="text-align: right;">Page 170</p> <p>1 COURT REPORTER: Question: So for 2 instance, it sounds like it's just a quick 3 turnaround with three days, and also there's just 4 some administrative things that need to be gone 5 through and it takes time; is that accurate? 6 Q. (By Mr. Moore) I guess I can break it 7 down a little simpler then. So as far as what is 8 preventing counsel from being appointed for all 9 these hypothetical juveniles at these detention 10 hearings, I think you testified that it's one, a 11 timing issue, the three days is kind of a quick 12 turnaround; is that right? 13 A. It -- it's an issue for the attorneys 14 who have to represent the children, the conflict -- 15 the conflict attorneys. So they have other cases in 16 other jurisdictions, and so three days is oftentimes 17 not enough time for that attorney to then find 18 coverage for the cases that they are dealing with. 19 Q. Right. 20 A. And the current clients that they have 21 to represent. 22 Q. Okay. So that kind of sounds like a -- 23 like a yes, it is like a timing thing, right, three 24 days is not often enough time to give notice to the 25 proper attorneys or to, you know, recruit the</p>	<p style="text-align: right;">Page 172</p> <p>1 how that administratively gets handled? 2 A. I have nothing to do with that. 3 Q. Okay. There was some discussion 4 earlier about the use of experts in juvenile cases. 5 Do you recall that conversation? 6 A. Yes. 7 Q. And so, you know, correct me if I'm 8 wrong, but bottom line is you don't necessarily need 9 an expert for every single case that comes your way; 10 is that right? 11 A. I don't -- I don't think that's a 12 bottom line. I think that each child comes to you 13 as a unique and different circumstance and so would 14 I love to have an expert to talk about adolescent 15 brain development on every single child, yes. Do I 16 have that ability, no. 17 Q. Okay. But you would agree that the 18 type of experts that you need on a case would be 19 dependent on the specifics of that particular case, 20 right? 21 A. Absolutely. 22 Q. But in your opinion you would offer an 23 expert in every single juvenile case about juvenile 24 brain development? 25 A. Juvenile brain development or mitiga --</p>

<p style="text-align: right;">Page 173</p> <p>1 or mitigation or something to explain how a 2 juvenile's intent for a certain type of case might 3 be different than another, yes. Some form of 4 expert, whether it be for disposition or 5 adjudication, yes.</p> <p>6 Q. Okay. Has there ever been a 7 circumstance where you had requested experts be 8 utilized in a case, but your request was denied?</p> <p>9 A. No.</p> <p>10 VIDEOGRAPHER: One moment, please. Can 11 we go off the record for a second? We're going off 12 the record at approximately 12:21 p.m.</p> <p>13 (WHEREIN, a discussion was held off the 14 record.)</p> <p>15 VIDEOGRAPHER: We're back on the record 16 at approximately 12:22 p.m.</p> <p>17 Q. (By Mr. Moore) Thanks. I think the 18 last question that we -- I asked you was whether you 19 had ever been -- you had ever had your request for 20 an expert in a case denied and I think your answer 21 was no, that's never happened?</p> <p>22 A. That's correct.</p> <p>23 Q. Same question as to investigators in 24 your cases, have you ever requested an investigator 25 and had that request denied?</p>	<p style="text-align: right;">Page 175</p> <p>1 Q. All right. And so there's also some 2 discussions about like social workers on cases?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if there are any like 5 ethical requirements that you utilize social workers 6 on your cases?</p> <p>7 A. Ethical requirements imposed upon 8 myself?</p> <p>9 Q. Right.</p> <p>10 A. I don't know of any.</p> <p>11 Q. How about any like legal or statutory 12 requirements for social workers on your cases?</p> <p>13 A. I don't know of any.</p> <p>14 Q. Are you aware of any constitutional 15 requirements that you utilize -- you utilize social 16 workers on your cases?</p> <p>17 A. No, I do not believe that there is a 18 constitutional requirement that requires me to use a 19 social worker.</p> <p>20 Q. Okay. So you were also asked about 21 support staff earlier. Do you remember that 22 conversation?</p> <p>23 A. I do.</p> <p>24 Q. And I think you did end up stating that 25 you felt like you were adequately supported with the</p>
<p style="text-align: right;">Page 174</p> <p>1 A. No, I have not.</p> <p>2 Q. Okay. There was some discussion 3 earlier about like the number of depositions and 4 motions that you filed in your cases. Do you recall 5 those questions?</p> <p>6 A. I do.</p> <p>7 Q. Now, would you agree that the number of 8 depositions and motions you file in a case are going 9 to be highly dependent on the case itself and what's 10 happening in that case?</p> <p>11 MS. QUINN: Objection as to form, 12 compound question.</p> <p>13 A. So you asked about depositions, so yes, 14 deposition -- it would depend on what kind of case 15 it is. And then what was the other piece?</p> <p>16 Q. (By Mr. Moore) Motions.</p> <p>17 A. Motions. It would -- it would depend 18 on the case, yes.</p> <p>19 Q. Right. You -- you basically do what 20 the case requires as far as taking depositions and 21 filing motions, right?</p> <p>22 A. I -- yes, at the time of -- that I am 23 representing a youth, I do everything that I can to 24 try to represent that youth to the best of my 25 ability.</p>	<p style="text-align: right;">Page 176</p> <p>1 support staff that you currently have; is that 2 right?</p> <p>3 A. Yes, with -- with her current duties. 4 Would I like her to do more, absolutely, but with 5 the duties that I give her, I believe that I am 6 adequately assisted.</p> <p>7 Q. Right. Very good. And there was a 8 question about whether your staff received a special 9 instruction as to parole matters -- or sorry, not 10 parole. Juvenile matters. Do you recall that?</p> <p>11 A. Yes.</p> <p>12 Q. But as I understand the task that the 13 staff are engaging in include like typing up 14 letters, right?</p> <p>15 A. Well, we don't normally do many letters 16 because the youth are either detained or we're -- 17 we're calling them on the phone. So letters is not 18 necessarily juvenile-specific.</p> <p>19 Q. Okay. I mean, do you feel that the 20 staff would need juvenile-specific training in order 21 to perform their duties?</p> <p>22 A. Absolutely.</p> <p>23 Q. And in what way would they need the 24 additional training?</p> <p>25 A. They need to know the rules and the</p>

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<p style="text-align: right;">Page 177</p> <p>1 policies and procedures with regard to juvenile 2 court. They need to know that the individuals that 3 we're dealing with are different than the adults. 4 So a call from a youth from a facility is -- is 5 going to need some very quick attention. They need 6 to know about filing practices. They need to know 7 about timelines and deadlines. Juvenile cases go 8 very quickly and so they need to understand the 9 urgency with which we deal with juvenile cases.</p> <p>10 Q. And you've worked on adult criminal 11 cases as well, right?</p> <p>12 A. I have.</p> <p>13 Q. And are there deadlines for criminal 14 cases that involve adults as well?</p> <p>15 A. Yes.</p> <p>16 Q. And you also field phone calls from 17 adult -- adults who have been convict -- or accused 18 of crimes, right?</p> <p>19 A. Yes. I -- I think they're important, 20 but I -- children, their understanding of what is 21 happening to them and what is going on and the 22 urgency with which you address those phone calls, I 23 think is very important that support staff 24 understand. So I'm not placing their lives any 25 higher than an adult defendant's life, but the --</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. So kind of sounds like in many cases 2 you're presenting more evidence and calling more 3 witnesses than the prosecution for these 4 certification issues; is that right?</p> <p>5 A. Yes. In -- in my certification cases 6 usually I am.</p> <p>7 Q. And you definitely feel like you've met 8 your ethical responsibilities with regard to these 9 certification procedures, right?</p> <p>10 A. I -- I don't think I can -- I can say 11 that.</p> <p>12 Q. You don't feel like you've met your 13 ethical obligations to your clients with regard to 14 certification procedures?</p> <p>15 A. Not in every case, no.</p> <p>16 Q. And -- okay. So in -- in what way do 17 you feel like you have not?</p> <p>18 A. In what way? Are you asking for 19 generally or specific cases?</p> <p>20 Q. If you have specifics --</p> <p>21 MS. SHIPMA: I would object to her 22 answering any questions about specific cases.</p> <p>23 MR. MOORE: Okay.</p> <p>24 Q. (By Mr. Moore) So like I said, I'm 25 jumping around a little bit. So you talked a little</p>
<p style="text-align: right;">Page 178</p> <p>1 the staff needs to understand the urgency with which 2 to treat their requests.</p> <p>3 Q. Okay. And again, you feel like your 4 staff is supporting you adequately as it relates to 5 these requirements; is that correct?</p> <p>6 A. With regard to the tasks that I am 7 giving my support staff, I believe that I am 8 adequately assisted.</p> <p>9 Q. Okay. So as to the certification 10 cases, you discussed that process a little bit 11 earlier. Do you recall the conversation?</p> <p>12 A. Yes.</p> <p>13 Q. And I think you were asked about the 14 type of evidence that you put on versus the type of 15 evidence that the prosecution would put on, right?</p> <p>16 A. Correct.</p> <p>17 Q. And it sounded like the prosecution 18 just puts on the deputy juvenile officer; is that 19 right?</p> <p>20 A. In most cases, yes.</p> <p>21 Q. And you said yourself you have used 22 witnesses of various kinds, you've had officer 23 testimony, and other types of evidence as well, 24 right?</p> <p>25 A. Yes, I have.</p>	<p style="text-align: right;">Page 180</p> <p>1 bit about the pre-Miranda process.</p> <p>2 A. Yes.</p> <p>3 Q. Tell me a little bit about what that 4 entails.</p> <p>5 A. If a child is detained and they request 6 counsel before being interrogated by a police 7 officer, then the juvenile court would call me.</p> <p>8 Q. Okay. And I think you said as far as 9 lineups go, you are now called for any lineups prior 10 to the lineups taking place in St. Louis city; is 11 that right?</p> <p>12 A. Yes, I am.</p> <p>13 Q. Okay. Now, you were asked earlier 14 about your involvement in appeals of juvenile 15 matters. Do you recall that conversation?</p> <p>16 A. I do.</p> <p>17 Q. And I think you said that maybe you had 18 worked on a small amount, maybe one appeal or so; is 19 that right?</p> <p>20 A. I have written and argued my own 21 appeal, but I have appealed other cases.</p> <p>22 Q. Okay. But in any event, I mean, you 23 have to have a reason to appeal in each case, right?</p> <p>24 A. I do not have to have a reason to 25 appeal. The child has to indicate that they want to</p>

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<p style="text-align: right;">Page 181</p> <p>1 appeal the case.</p> <p>2 Q. And there has to be, you know, like</p> <p>3 a -- a legal foundation and -- you know, for the</p> <p>4 appeals process whenever you're making arguments to</p> <p>5 the court filing motions, right?</p> <p>6 A. I'm a little bit confused by your</p> <p>7 question. Every child has a right to an appeal, so</p> <p>8 I don't have to find a reason for them to appeal.</p> <p>9 If they want to say they want to appeal a case, a</p> <p>10 case will be appealed.</p> <p>11 Q. Okay. So if they ask you for the</p> <p>12 appeal, then you do the appeal, right?</p> <p>13 A. That is correct.</p> <p>14 Q. And if they don't ask you, then, you</p> <p>15 know, there's -- you don't have any right to</p> <p>16 independently pursue an appeal, right?</p> <p>17 A. So --</p> <p>18 MS. QUINN: Objection. I don't</p> <p>19 understand what you're asking.</p> <p>20 MR. MOORE: I think it's a pretty</p> <p>21 straightforward question.</p> <p>22 Q. (By Mr. Moore) I mean, so if they</p> <p>23 don't ask you for an appeal, then you don't have any</p> <p>24 independent right to just say, well, we're going to</p> <p>25 appeal this case whether you like it or not, right?</p>	<p style="text-align: right;">Page 183</p> <p>1 instructions or, you know, mathematical formulas,</p> <p>2 you had nothing to do with the creation of those</p> <p>3 things, did you?</p> <p>4 A. I did not.</p> <p>5 Q. I guess just the last item would be</p> <p>6 Exhibit 29. That's the fiscal year 2016 annual</p> <p>7 report.</p> <p>8 A. Okay.</p> <p>9 Q. Again, you know, you didn't help with</p> <p>10 any part of the data collection in this --</p> <p>11 pertaining to this report, did you?</p> <p>12 A. I did not.</p> <p>13 Q. You didn't help draft this report?</p> <p>14 A. I did not.</p> <p>15 Q. Do you know who did draft this report?</p> <p>16 A. I do not.</p> <p>17 MR. MOORE: Okay. I think that that is</p> <p>18 all I have for right now. I'll look at my notes,</p> <p>19 but you go ahead.</p> <p>20 MS. SHIPMA: Well, no, I'll let you</p> <p>21 look over your notes and see if you have any other</p> <p>22 questions before I do my questioning.</p> <p>23 MR. MOORE: Okay. Okay.</p> <p>24 Q. (By Mr. Moore) Do you have any say as</p> <p>25 to how funds are allocated within the public</p>
<p style="text-align: right;">Page 182</p> <p>1 A. So -- so we educate a child about their</p> <p>2 right to an appeal and part of that education</p> <p>3 includes also informing the parents that they also</p> <p>4 can appeal a case -- the case, so that is the</p> <p>5 process that -- and procedure that we go through</p> <p>6 with regard to juvenile appeals.</p> <p>7 Q. Okay. So just a couple things and then</p> <p>8 we'll be done here. Looking at Exhibit 29,</p> <p>9 Plaintiff's Exhibit 29, this is the -- actually, you</p> <p>10 know what, that's not the one I wanted to look at.</p> <p>11 I want to look at 27, the new attorney toolbox.</p> <p>12 A. Okay.</p> <p>13 Q. I think you might have said this</p> <p>14 earlier, but just to clarify, you're not sure</p> <p>15 whether this is being utilized or in what manner</p> <p>16 it's being utilized by any public defender --</p> <p>17 A. No, I am not.</p> <p>18 Q. -- personally, right? You don't know</p> <p>19 whether it's been modified or amended or totally</p> <p>20 done away with in any particular county, right?</p> <p>21 A. Correct.</p> <p>22 Q. You didn't help draft this report in</p> <p>23 any way, did you?</p> <p>24 A. I did not.</p> <p>25 Q. To the extent there's any kind of</p>	<p style="text-align: right;">Page 184</p> <p>1 defender system?</p> <p>2 A. I do not.</p> <p>3 Q. Do you have anything to do with how</p> <p>4 public defender's budget is allocated or separated</p> <p>5 out as between the offices?</p> <p>6 A. I do not.</p> <p>7 Q. Oh, I do have a question about</p> <p>8 discovery process. You mentioned something about</p> <p>9 like a blue file?</p> <p>10 A. Yes.</p> <p>11 Q. What is the blue file exactly?</p> <p>12 A. So in St. Louis County and I can't</p> <p>13 speak to their current practices, but when I was</p> <p>14 representing juveniles in St. Louis County they had</p> <p>15 a series of blue files for each specific case, and</p> <p>16 so when you wanted to go see the police reports you</p> <p>17 would go back into the legal officers' area, pull</p> <p>18 the blue file that pertained to your case and make a</p> <p>19 copy of the -- the police reports.</p> <p>20 Q. Okay. So as far as like obtaining</p> <p>21 those records and putting the blue file together, I</p> <p>22 mean, is that something the attorneys would do</p> <p>23 themselves or would support staff assist them in</p> <p>24 creating those files?</p> <p>25 A. And when you're saying attorneys, are</p>

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<p style="text-align: right;">Page 185</p> <p>1 you talking about the legal officers?</p> <p>2 Q. Not exactly sure. Like this is the</p> <p>3 public defenders I guess. Would they be considered</p> <p>4 the legal officers or --</p> <p>5 A. No. So the public defenders are not</p> <p>6 creating those blue files.</p> <p>7 Q. Okay. So I guess -- so who does that,</p> <p>8 the legal officers you said?</p> <p>9 A. Yes, so the -- the prosecutors are --</p> <p>10 I -- their entity is creating those files. I don't</p> <p>11 know exactly who is doing it --</p> <p>12 Q. Oh, I see now.</p> <p>13 A. -- but I -- but they -- that entity is</p> <p>14 creating those files.</p> <p>15 Q. Okay. Now I understand. Have you ever</p> <p>16 subject -- have you ever been subject to any kind of</p> <p>17 discipline towards your law license with regard to</p> <p>18 your handling of cases while you were at the public</p> <p>19 defender's office?</p> <p>20 A. I have not.</p> <p>21 MR. MOORE: I think that's all I have.</p> <p>22 Thanks.</p> <p>23 EXAMINATION</p> <p>24 QUESTIONS BY MS. SHIPMA:</p> <p>25 Q. All right, Sarah. I'm not going to</p>	<p style="text-align: right;">Page 187</p> <p>1 unable to?</p> <p>2 A. Yes.</p> <p>3 Q. And why are you unable to do that?</p> <p>4 A. I'm unable to do that because she in</p> <p>5 addition to myself has a number of attorneys that</p> <p>6 she is also working with to provide the best</p> <p>7 assistance that she can.</p> <p>8 Q. Can you give me an example of one kind</p> <p>9 of task that you would like to assign to a support</p> <p>10 staff but are unable to do so?</p> <p>11 A. Sure. So there is something called a</p> <p>12 social file in a juvenile case. A social file is a</p> <p>13 file that contains all the documents with regard to</p> <p>14 a specific youth. So it could be care and</p> <p>15 protection case files, it could be school records,</p> <p>16 it could be mental health records. It could be</p> <p>17 previous police reports or previous deputy juvenile</p> <p>18 officer social investigations. Sometimes it's</p> <p>19 hundreds of pages. Myself, I use a scanner and I</p> <p>20 scan all of those pages myself. I would love to</p> <p>21 delegate that task to her, but I am unable to.</p> <p>22 Q. Because of the tasks that she's doing</p> <p>23 for other attorneys as well?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. I think that Mr. Moore asked a</p>
<p style="text-align: right;">Page 186</p> <p>1 belabor this. I'm going to work backwards just for</p> <p>2 fun. How does that sound?</p> <p>3 A. Okay.</p> <p>4 Q. Okay. The Missouri public defender</p> <p>5 system has an appellate division, correct?</p> <p>6 A. Yes, they do.</p> <p>7 Q. Does that appellate division handle</p> <p>8 juvenile -- juvenile appeals?</p> <p>9 A. Yes.</p> <p>10 Q. You mentioned -- or you -- you</p> <p>11 testified a couple of times about the fact that</p> <p>12 you're called prior to lineups occurring in</p> <p>13 St. Louis city?</p> <p>14 A. Yes.</p> <p>15 Q. Do -- are you able to make it to all</p> <p>16 those lineups?</p> <p>17 A. No, I am not.</p> <p>18 Q. And why would that be?</p> <p>19 A. Sometimes the lineups are late at night</p> <p>20 or early in the morning and I am already home.</p> <p>21 Q. Okay.</p> <p>22 A. Or I'm in court, so I'm -- I'm not able</p> <p>23 to leave court and go to those lineups.</p> <p>24 Q. Understood. Are there tasks that you</p> <p>25 would like to assign to your support staff but are</p>	<p style="text-align: right;">Page 188</p> <p>1 question that was sort of characterizing that you</p> <p>2 believe that you do what the case requires when</p> <p>3 you're handling a case.</p> <p>4 A. Sure.</p> <p>5 Q. You remember that question?</p> <p>6 A. I do.</p> <p>7 Q. Are there things that you would like to</p> <p>8 do in cases, but are unable to do?</p> <p>9 A. Yes.</p> <p>10 Q. And why are you unable to do things</p> <p>11 that you would like to do in other cases?</p> <p>12 A. Because of time constraints, because of</p> <p>13 obligations to other clients and -- and limitation.</p> <p>14 When you are tasked with a child who is sitting in a</p> <p>15 detention center, a num -- a number of children who</p> <p>16 are sitting in a detention center, you know, you</p> <p>17 don't want them to languish.</p> <p>18 Q. Can you give me one example of</p> <p>19 something that you can think of that goes by the</p> <p>20 wayside because of time?</p> <p>21 A. I was asked specifically about</p> <p>22 placement in inpatient or residential facilities.</p> <p>23 My ability to investigate options such as those, I'm</p> <p>24 not able to do on every single case.</p> <p>25 Q. Why don't you assign that task to</p>

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1 **someone else to investigate?**
 2 A. Because they -- the -- either the
 3 investigator or the social worker who would be doing
 4 that is also overloaded.
 5 **Q. Have you ever requested an outside**
 6 **investigator?**
 7 A. Outside of the public defender system?
 8 **Q. Right.**
 9 A. No, I have not.
 10 **Q. Okay. You -- you testified that you**
 11 **had never had a request for an expert denied,**
 12 **correct?**
 13 A. That is correct.
 14 **Q. Have you ever had a request for an**
 15 **expert modified?**
 16 A. I have not.
 17 **Q. You talked a couple of times about the**
 18 **motion bank. Are you familiar with a resource**
 19 **called the litigation resource board?**
 20 A. Yes.
 21 **Q. And that's separate from the motion**
 22 **bank?**
 23 A. It is.
 24 **Q. Do you know if that resource has**
 25 **juvenile-specific materials on it?**

1 A. I believe it does, but I'm not for
 2 certain.
 3 **Q. You haven't visited that?**
 4 A. Not recently, no.
 5 **Q. Sorry, but I am going to direct you to**
 6 **page -- to Exhibit 29, page 23 just because I want**
 7 **to make sure we're all using the same terminology**
 8 **when we look at this. You see -- I believe that**
 9 **Ms. Quinn asked you about the approximately 600 --**
 10 **or 1,600 and I believe she said open cases.**
 11 A. Uh-huh.
 12 **Q. Okay. Look at the columns at the top,**
 13 **the descriptors for the various columns.**
 14 A. Uh-huh.
 15 **Q. You see one that says Case Type, one**
 16 **that says Description, and one that says Opened**
 17 **Cases rather than open cases?**
 18 A. Correct.
 19 **Q. In -- in your mind, is there a**
 20 **distinction between an open case and an opened case?**
 21 A. Yes, there is.
 22 **Q. Do you know what -- do you know if MSPD**
 23 **makes a distinction between open cases and opened**
 24 **cases?**
 25 A. I believe they do, yes.

1 **Q. And what is that distinction?**
 2 A. So when a case is open, it is open and
 3 assigned to an attorney in our system. When a case
 4 is opened, it could be opened and then a private
 5 attorney had entered or it had been dismissed or
 6 something else. So that doesn't necessarily mean
 7 that someone is currently representing that
 8 individual.
 9 **Q. Do you know in this Opened Cases**
 10 **column, does that include cases that were pending**
 11 **that were not opened during fiscal year 2016, but**
 12 **maybe had carried over from a prior fiscal year?**
 13 **And if you don't know that, that's okay.**
 14 A. I don't know that.
 15 **Q. I can get that from someone else.**
 16 **Okay. Thank you. Do you know if Karen Craft had**
 17 **any other job responsibilities other than juvenile**
 18 **matters?**
 19 A. Yes.
 20 **Q. What were those?**
 21 A. I know for certain that she had also
 22 dealt with capital cases as well as I believe sex
 23 cases, and then she was also a manager of several
 24 offices or units.
 25 **Q. Okay. So she wasn't designated**

1 **specifically just to juvenile like you had been for**
 2 **a while?**
 3 A. Correct.
 4 **Q. You were asked some questions regarding**
 5 **a policy on how to determine a conflict.**
 6 A. Sure.
 7 **Q. Do you remember that? Do you know if**
 8 **there's a written policy that MSPD has regarding how**
 9 **to spot a conflict?**
 10 A. I believe there is.
 11 **Q. Okay. Do you know if that policy**
 12 **differs in any respect from just the rules of**
 13 **professional responsibility, professional conduct?**
 14 A. No, I'm not.
 15 MS. SHIPMA: I have no other questions.
 16 MS. QUINN: We just have a few if it's
 17 all right.
 18 FURTHER EXAMINATION
 19 QUESTIONS BY MS. QUINN:
 20 **Q. I believe earlier you were asked on**
 21 **cross-examination about hypothetical juveniles whom**
 22 **you might be involved with at detention hearings**
 23 **where there's a conflict of interest. It is in fact**
 24 **true that you have represented youth at detention**
 25 **hearings and been conflicted while doing so,**

<p style="text-align: right;">Page 193</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Can you estimate how many children in</p> <p>4 the last year you have represented at detention</p> <p>5 hearings while knowing that you were conflicted</p> <p>6 based on their status as having a co-defendant?</p> <p>7 A. I can't. I'm sorry. I don't know. I</p> <p>8 don't know how many.</p> <p>9 Q. More than ten?</p> <p>10 A. Probably.</p> <p>11 Q. More than 50?</p> <p>12 A. I don't think so.</p> <p>13 Q. And you were asked about appeals and it</p> <p>14 sounded like perhaps the question posed assumed that</p> <p>15 you were supposed to cull out when an appeal is an</p> <p>16 appropriate or inappropriate path for youth. Do you</p> <p>17 remember that question?</p> <p>18 A. I do.</p> <p>19 Q. Is it your understanding that all youth</p> <p>20 found guilty or adjudicated have a right to appeal?</p> <p>21 A. Yes.</p> <p>22 Q. And it is in fact true that you have</p> <p>23 not informed all youth of their right to appeal,</p> <p>24 correct?</p> <p>25 A. All youth after an adjudication</p>	<p style="text-align: right;">Page 195</p> <p>1 A. No, it has not been the practice.</p> <p>2 Q. Now, there was some review of this</p> <p>3 4.6-hour on average number generated by the</p> <p>4 RubinBrown study relating to juvenile cases. Do you</p> <p>5 recollect that?</p> <p>6 A. I do.</p> <p>7 Q. And just to be clear, have you ever</p> <p>8 encountered a juvenile case in your own docket that</p> <p>9 could be handled in less than 4.6 hours?</p> <p>10 A. It would be a very rare circumstance.</p> <p>11 Q. And what about any of these attorneys</p> <p>12 who have called you to seek your assistance, is</p> <p>13 there any matter that they've called you about that</p> <p>14 in your opinion could be handled in less than</p> <p>15 4.6 hours?</p> <p>16 A. No.</p> <p>17 MS. QUINN: I think that's it.</p> <p>18 MS. SHIPMA: I don't have anything</p> <p>19 further.</p> <p>20 FURTHER EXAMINATION</p> <p>21 QUESTIONS BY MR. MOORE:</p> <p>22 Q. Just a couple quick follow-ups. Okay.</p> <p>23 So you said earlier that you are notified whenever</p> <p>24 there's going to be a lineup in the city of</p> <p>25 St. Louis, right?</p>
<p style="text-align: right;">Page 194</p> <p>1 hearing, trial?</p> <p>2 Q. Yes.</p> <p>3 A. Yes, all youth after a plea hearing,</p> <p>4 no.</p> <p>5 Q. And the vast majority of your cases are</p> <p>6 resolved by a guilty plea, correct?</p> <p>7 A. I would disagree with that.</p> <p>8 (Court reporter interruption.)</p> <p>9 Q. (By Ms. Quinn) The vast majority of</p> <p>10 cases are resolved by a guilty plea?</p> <p>11 A. I would say no. I would say there --</p> <p>12 we have a lot of trials in the city of St. Louis.</p> <p>13 Q. Right. I think the national average is</p> <p>14 somewhere around ten percent of cases go to trial</p> <p>15 and 90 percent are resolved by guilty plea. Is that</p> <p>16 about right for your office?</p> <p>17 A. I don't think so, no.</p> <p>18 MS. SHIPMA: And Mae, are those</p> <p>19 statistics for juvenile cases?</p> <p>20 MS. QUINN: I think so. I think so.</p> <p>21 MS. SHIPMA: Okay.</p> <p>22 Q. (By Ms. Quinn) So in any event, no</p> <p>23 matter the number, when a child pleads guilty, it</p> <p>24 has not been the practice to inform them of their</p> <p>25 right to appeal at that -- at that time?</p>	<p style="text-align: right;">Page 196</p> <p>1 A. Yes.</p> <p>2 Q. But you don't always go to those</p> <p>3 lineups, right?</p> <p>4 A. No, I do not.</p> <p>5 Q. And what was the reason for not going</p> <p>6 to lineups? I think you said some happened in the</p> <p>7 middle of the night, and were there other reasons?</p> <p>8 A. I've never been called in the middle of</p> <p>9 the night, but there have been some late at night.</p> <p>10 I have two small children and so I am not able to</p> <p>11 leave those -- my children and go to the lineups.</p> <p>12 Also, I have had court constraints, so I've been</p> <p>13 called in the middle of a court hearing and I've not</p> <p>14 been able to leave that court hearing and go to the</p> <p>15 lineup.</p> <p>16 Q. Okay. And so you talked about certain</p> <p>17 tasks that you would like to assign to your support</p> <p>18 staff but that you can't. Remember that?</p> <p>19 A. Correct.</p> <p>20 Q. I think one of those sounded like it</p> <p>21 was basically like making copies of the social file;</p> <p>22 is that right?</p> <p>23 A. It's scanning. We're not allowed to</p> <p>24 make copies, but we can scan it with a special</p> <p>25 instrument, yes.</p>

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<p>1 Q. Okay. Any other tasks that you would 2 like to assign to staff that you are unable to 3 because of -- or for whatever reason? 4 A. I think probably notification of court 5 hearings and coordination of witnesses potentially. 6 Making sure everyone knows the right place, 7 coordinating if people need bus passes or if they 8 need some sort of transportation help. Potentially 9 drafting some basic form motions. Not necessarily 10 substance of law motions, but form motions. 11 Q. And so you're saying these are things 12 that you cannot assign to your support staff? 13 A. I could, but she is very overworked and 14 overloaded and with the specific time constraints of 15 juvenile cases I don't know that she would be able 16 to accomplish those tasks in the specific time 17 needed. 18 Q. Okay. Have you ever tried to assign 19 those tasks to her or is it just something you've 20 never done before? 21 A. No, I have assigned -- the only thing 22 I've not assigned to her is the scanning of the 23 social file. I have assigned other tasks to her, 24 yes. 25 Q. Okay. Tell me a little bit more about</p>	<p>1 (WHEREIN, the deposition was concluded 2 at 12:50 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 the litigation resource board. What exactly is 2 that? 3 A. It's a board where there are resources, 4 case -- cases, as well as motions for attorneys 5 across the state. 6 Q. Is that a -- like an on-line form of 7 some kind or is it like a physical board? 8 A. No, it's -- it's on-line. It's -- it's 9 in our system. 10 Q. Okay. And so you're able to access 11 that from your computer whenever you want, right? 12 A. Yes. Yes. 13 Q. And other public defenders could 14 presumably do the same thing, right? 15 A. Yes. 16 MR. MOORE: I think that's all I have. 17 VIDEOGRAPHER: We're going off the 18 record at approximately 12:50 p.m. 19 COURT REPORTER: Counsel, there were 20 orders from the depositions on Wednesday. Could I 21 just get confirmation that those same orders apply 22 for today? 23 MS. QUINN: Yes, sir. 24 MS. SHIPMA: Yes. 25 MR. MOORE: Yes.</p>	<p>1 CERTIFICATE OF REPORTER 2 3 I, William L. DeVries, a Certified 4 Court Reporter (MO), Certified Shorthand Reporter 5 (IL), Registered Diplomat Reporter, and a Certified 6 Realtime Reporter, do hereby certify that the 7 witness whose testimony appears in the foregoing 8 deposition was duly sworn by me pursuant to Section 9 492.010 RSMo; that the testimony of said witness was 10 taken by me to the best of my ability and thereafter 11 reduced to typewriting under my direction; that I am 12 neither counsel for, related to, nor employed by any 13 of the parties to the action in which this 14 deposition was taken, and further that I am not a 15 relative or employee of any attorney or counsel 16 employed by the parties thereto, nor financially or 17 otherwise interested in the outcome of the action. 18 19 20 21 22 _____ 23 Certified Court Reporter 24 within and for the State of Missouri 25</p>

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<p align="right">Page 201</p> <p>1 MIDWEST LITIGATION SERVICES</p> <p>2</p> <p>3 October 12, 2017</p> <p>4 Ms. Jacqueline Shipma</p> <p>5 Missouri State Public Defender</p> <p>6 1000 West Nifong</p> <p>7 Building 7, Suite 100</p> <p>8 Columbia, Missouri 65203</p> <p>9 IN RE: SHONDEL CHURCH, et al. vs. STATE OF</p> <p>10 MISSOURI, et al.</p> <p>11 Dear Ms. Shipma,</p> <p>12 Please find enclosed your copies of the deposition of</p> <p>13 SARAH K. JOHNSON taken on October 6, 2017 in the</p> <p>14 above-referenced case. Also enclosed is the original</p> <p>15 signature page and errata sheets.</p> <p>16 Please have the witness read your copy of the</p> <p>17 transcript, indicate any changes and/or corrections</p> <p>18 desired on the errata sheets, and sign the signature</p> <p>19 page before a notary public.</p> <p>20 Please return the errata sheets and notarized</p> <p>21 signature page within 30 days to our office at 711 N</p> <p>22 11th Street, St. Louis, MO 63101 for filing.</p> <p>23 Sincerely,</p> <p>24 William L. DeVries, RDR/CRR</p> <p>25 Enclosures</p>	<p align="right">Page 203</p> <p>1 STATE OF _____)</p> <p>2</p> <p>3 COUNTY OF _____)</p> <p>4</p> <p>5 I, SARAH K. JOHNSON, do hereby certify:</p> <p>6 That I have read the foregoing deposition;</p> <p>7 That I have made such changes in form</p> <p>8 and/or substance to the within deposition as might</p> <p>9 be necessary to render the same true and correct;</p> <p>10 That having made such changes thereon, I</p> <p>11 hereby subscribe my name to the deposition.</p> <p>12 I declare under penalty of perjury that the</p> <p>13 foregoing is true and correct.</p> <p>14 Executed this _____ day of _____,</p> <p>15 20____, at _____.</p> <p>16</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 SARAH K. JOHNSON</p> <p>21</p> <p>22 _____</p> <p>23 NOTARY PUBLIC</p> <p>24 My Commission Expires:</p> <p>25</p>
<p align="right">Page 202</p> <p>1 ERRATA SHEET</p> <p>2 Witness Name: SARAH K. JOHNSON</p> <p>3 Case Name: SHONDEL CHURCH, et al. vs. STATE OF</p> <p>4 MISSOURI, et al.</p> <p>5 Date Taken: OCTOBER 6, 2017</p> <p>6</p> <p>7 Page # _____ Line # _____</p> <p>8 Should read: _____</p> <p>9 Reason for change: _____</p> <p>10</p> <p>11 Page # _____ Line # _____</p> <p>12 Should read: _____</p> <p>13 Reason for change: _____</p> <p>14</p> <p>15 Page # _____ Line # _____</p> <p>16 Should read: _____</p> <p>17 Reason for change: _____</p> <p>18</p> <p>19 Page # _____ Line # _____</p> <p>20 Should read: _____</p> <p>21 Reason for change: _____</p> <p>22</p> <p>23 Witness Signature: _____</p> <p>24</p> <p>25</p>	

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